

Submission of the Child Rights International Network to the External Review Panel to Examine the United Nations handling of Sexual Abuse Allegations in Central African Republic

In response to the incidents of sexual exploitation and abuse (SEA) against children in Central African Republic (CAR) by troops operating in the MISCA and MINUSCA peacekeeping missions, CRIN welcomes the Secretary-General's decision to set up an external independent review to examine the UN system's handling of these allegations. This case has highlighted a number of significant concerns around the provision of care provided to the victims, how UN investigations are undertaken, the safeguards provided to those who disclose information, and the lack of accountability within the UN management structure.

Following CRIN's joint letter to the Secretary-General regarding these allegations¹, CRIN has been examining the UN's response to the SEA revelations in CAR and the consequences for individuals who disclose information about how the UN responds to serious information of this kind, CRIN will outline its main concerns, followed by a series of recommendations which we hope will contribute to the investigative work of the external review.

1. Victims

Providing support to the child victims of SEA, and a timely response to such crimes must be of paramount concern, with immediate measures being taken to assist victims. It is not clear what specific guidelines were followed in providing care to the victims of SEA in CAR and whether best practice guidelines were followed in caring for the children. There has also been no indication regarding the time lapse from when children first reported the incidents of SEA to when provisions of care were provided. Failure to provide such care in a timely manner would be a clear violation of Article 19² (protection of children from violence) and Article 34³ (sexual exploitation) of the Convention of the Rights of the Child. Secondly, the length of time from when allegations were first made to local NGO staff in Bangui, who informed staff from the Office of the High Commissioner for Human Rights (OHCHR) and UNICEF in May and June 2014, to the allegations being investigated is worrying. This extensive period may have led to more incidents of SEA potentially taking place despite abuses having already been reported. Lastly, information about the victims' access to judicial remedies must be made public in order to ensure the continued legitimacy of the UN missions.

2. Investigations

The various investigative processes also raise significant concerns, especially around the role of the OHCHR. Firstly, it needs to be examined whether anyone in the OHCHR, and if so, who, obstructed the French investigation that was instigated after the involvement of

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<https://www.crin.org/en/library/news-archive/sexual-abuse-ngo-call-un-transparency-over-child-sexual-abuse-peacekeepers>

² <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

³ *ibid.*

French peacekeeping troops' in SEA allegations was exposed by Anders Kompass in August 2014. Despite being contacted by investigators from the French government in August 2014, the individual who had submitted the initial report on the interviews which uncovered the abuse was not able to respond to French investigators until March 2015. The Office of Legal Affairs (OLA) at the OHCHR informed the French investigators that the official could not be interviewed, but would respond to written questions once they had gone through the OLA. This process had a considerable effect on the timeliness of the investigation and the review must address why this took so long, the extent of SEA that continued during this period from August 2014-March 2015, and to what extent this stalling of the investigation made the identification of perpetrators more difficult.

Furthermore, this case has highlighted the lack of guidelines around what specific protocols OHCHR staff need to follow when investigating incidents of SEA. It is also apparent that there is uncertainty among OHCHR staff, at all levels, as to what protocols are shared with other UN offices and under what circumstances information is shared with other agencies or governments. In addition, systemic failures in information sharing with relevant UN staff have been exposed, with many relevant stakeholders within the UN not being made aware of the revelations in CAR until the case was reported in the media, suggesting internal information sharing procedures also need to be clarified.

3. Information disclosure

The UN protection mechanisms for individuals who disclose information, including whistleblowers, need to be clarified. While the UN has a responsibility to swiftly report abuse to the appropriate jurisdiction, ensure access to justice and support for victims, it also has a responsibility to protect those who disclose information about abuse. The Secretary-General's 'Human Rights Up Front'⁴ initiative directly encourages UN staff to take a principled stance and act with moral courage to prevent serious and large-scale violations, while being able to count on the support of the UN in doing so. The institutional response to the actions of Anders Kompass goes against these principles.

The internal UN investigation also erroneously focussed on the sharing/leaking of the report, rather than on allegations of abuse. The panel must examine why, and when an investigation into the conduct of Anders Kompass was initiated and why this was prioritised over investigations focussing on the situation of the children. Documents show that the OHCHR was informed⁵ in July 2014 and that Anders Kompass had discussed the issue of SEA allegations in CAR with the French Deputy Ambassador⁶ and Ms Flavia Pansieri, (Deputy High Commissioner for Human Rights) in August 2014. Having never indicated an issue with Kompass's actions, why was Kompass then called on to resign in March 2015? What had changed in this period? The review must therefore examine the inconsistencies

⁴ <http://www.un.org/sg/rightsupfront/>

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<http://static1.squarespace.com/static/514a0127e4b04d7440e8045d/t/5565df2de4b07b9d5e6162fa/1432739629499/01+-+CAR+Letter+from+PR+of+France+to+Anders+Kompass%2C+OHCHR+-+July+30%2C+2014.pdf>

⁶ <http://www.un.org/en/oaj/files/undt/orders/gva-2015-099.pdf> p.2

during this period and explore whether there was a political influence behind the investigation and the subsequent request for him to resign investigating those in senior positions across involved UN agencies.

4. Accountability

The controversy this case has caused confirms a need to secure the total independence of the OHCHR from the political and peacekeeping departments in New York. The legitimacy of the OHCHR and its main contribution to the entire UN system appears to have been compromised by senior managers failing to ensure total independence. While it remains unclear as to which individuals and organisations first knew of the abuse and failed to act in the appropriate manner, it is clear that individuals in the process failed to report on the information at the earliest convenience, and this suggests that information regarding the abuse may have been inappropriately suppressed.

Secondly, the response of the High Commissioner, the Secretary-General and other senior staff to the disclosure of these allegations has been deeply unsatisfactory. The review must therefore examine the accountability deficit at the core of this case, especially where it has appeared that internal politics have taken precedent over a concern for violations. As stated in the Terms of Reference of this review, *the roles and specific duties* of those at the highest levels of the UN must be examined. This must include the role the Office of the High Commissioner, and the specific role of the High Commissioner, in order to examine why Anders Kompass was suspended so promptly.

The detection of future wrongdoing will be seriously hampered if reprisals against UN staff who report problems remain unaddressed. In order to ensure the promotion of transparency and accountability, and address suspicions that senior staff colluded to silence Anders Kompass, the specific roles of the Chief of Staff of the Office of the Secretary-General, the head of the OIOS and the head of the Ethics Office need to be carefully examined. Attempts to promote accountability will fail if this process is not appropriately undertaken.

5. Recommendations

5.1 Victims:

- Ensure that the provision of support and care to children who are victims of sexual abuse is a priority;
- Grant the victims and families of sexual abuse full reparations, including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition, noting that the duty to provide reparations for victims of human rights violations is not dependent on the identification of the perpetrator or their prosecution;
- Develop clear procedural guidelines of how to care for victims of sexual abuse after the violation has taken place;

5.2 Investigations:

- Clarify the circumstances, facts and chain of events regarding the UN's response after it was made aware of the findings of the internal report in order to determine why it took so long for appropriate investigative action to take place. Such an investigation must examine the actions taken by OHCHR, OIOS, and the office of the SG;
- Examine whether the OHCHR played an obstructionist role towards the French investigation;
- Clarify how information is handled between field offices, NY and Geneva when reporting on sexual abuse.
- Strengthen the guidance and requirements of UN and Member States in undertaking prompt, effective and independent investigations into all allegations of abuse against children by their troops in the future;
- Highlight what the timeframe of investigations into sexual abuse allegations should be, and how staff should be trained on these protocols;

5.3 Peacekeepers:

- Ensure all UN personnel, including UN mandated peacekeepers, undergo rigorous child protection training and vetting before being deployed on missions. Those who have been subjected to criminal convictions or disciplinary measures for sexual offences, or for any grave violations of international humanitarian and human rights law, must be excluded while those who are facing investigation must be temporarily suspended, unless and until they are cleared of all allegations;
- Establish a mandatory requirement for predeployment and in-theatre training of military peacekeepers on protection and rights of children in accordance with the DPKO Specialised Training Materials on child protection;⁷;

5.4 Information disclosure:

- Strengthen the UN's protection system for individuals who expose abuse, including by UN staff, peacekeepers and foreign troops, in line with:
 - o The Recommendations of the 2013 report of the UN Special Rapporteur on freedom of expression and of opinion to the General Assembly⁸, which provide that: "the disclosure in good faith of relevant information relating to human rights violations should be accorded protection from liability. On the other hand, the silence of State officials on violations that they witness can be interpreted as complicity....Government officials who release confidential information concerning violations of the law, wrongdoing by public bodies, grave cases of corruption, a serious threat to health, safety or the environment, or a violation of human rights or humanitarian law (i.e. whistleblowers) should, if they act in good faith, be protected against legal, administrative or employment related sanctions."

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<http://repository.un.org/bitstream/handle/11176/89585/STM%20Child%20Protection%20Military.pdf?sequence=1&isAllowed=y>

⁸ <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N13/464/76/PDF/N1346476.pdf?OpenElement> (A/68/362 para 93 and 107)

5.5 Accountability:

- Establish which individuals and organisations first knew of the abuse, when they were informed and what they did or did not do with the information;
- Examine whether information regarding the abuse may have been suppressed across UN agencies and by whom;
- Examine the role of the High Commissioner in requesting that Anders Kompass be dismissed so promptly;
- Establish why there were such considerable discrepancies⁹ between the leaked 'Experts' Team Report¹⁰ on sexual exploitation and abuse in UN peacekeeping operations' (which strongly criticised the way the UN handles sexual exploitation and abuse within mission contexts), and the Secretary-General's own annual report on 'Special measures for protection from sexual exploitation and sexual abuse'?¹¹
- Clarify what UNICEF's role has been throughout this case. UNICEF is the UN agency responsible for child protection, it has a presence in CAR and participated in the first investigation. When asked about its role, UNICEF spokesperson simply referred to when the Special Representative of the Secretary-General for Children and Armed Conflict was informed about the allegations;
- Clarify what the roles of the SG's Special Representatives with relevant mandates are when such allegations are made, including the SRSG for Sexual Violence in Conflict, the SRSG on Violence against Children and the SRSG on Children and Armed Conflict;
- If in finding that the Office and the High Commissioner have operated in a what appears to be politically motivated manner, appropriate action should be taken to ensure the accountability and legitimacy of the office in the future;

⁹ see the open letter from AIDS free world documenting the discrepancies:

<http://www.aidsfreeworld.org/Newsroom/Press-Releases/2015/Open-Letter-to-UN-Missions.aspx>

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<http://www.aidsfreeworld.org/Newsroom/Press-Releases/2015/~//media/Files/Peacekeeping/2013%20Expert%20Team%20Report%20FINAL.pdf>

¹¹ <http://www.undocs.org/a/69/779>