

URGENT

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United Nations Secretary General Ban Ki-moon,
760 United Nations Plaza, New York 10017,
United States

20 October 2015

Dear Secretary General,

I refer to my letter to you of 13 October 2015, in which I requested that you urgently put an end to the Office of Internal Oversight Service (OIOS) investigation into the disclosure by Mr Anders Kompass, Director at the Office of the High Commissioner for Human Rights (OHCHR), of the MINUSCA report *Sexual Abuse on Children by International Armed Forces* in the M'Poko IDP camp in Bangui, Central African Republic to the French authorities.

As I have previously explained, I am a key witness in this investigation. I was the Acting Director of the Africa Branch at OHCHR in early August 2014 during the period shortly after the MINUSCA report came to OHCHR's attention in Geneva. Mr Kompass was my direct supervisor at the time. I was the key contact between OHCHR and MINUSCA during the period immediately following the disclosure; and emails confirm my involvement. OIOS has repeatedly tried to interview me in connection with their investigation into Mr Kompass' disclosure (the latest request was on 25 September 2015) but I have not provided testimony as I believe the investigation was fundamentally flawed at the outset and may constitute an abuse of authority.

In my letter to you of 13 October 2015, I explained that in the absence of appropriate guidelines for situations of ongoing child sexual abuse, Mr Kompass followed the best practice established in many states, including Australia, Canada, the US, most European Union member states, Brazil and South Africa, which have implemented mandatory disclosure and reporting requirements for child abuse.

It has since come to my attention that while OHCHR does not have appropriate guidelines for reporting child abuse, the UN Office of Drugs and Crime (UNODC), in conjunction with UNICEF has issued guidance on reporting suspected crime against children, including through the provision of model legislation for states, and an online training course on justice matters involving children. The World Health Organization (WHO) which has a long-standing programme on child sexual abuse has also issued guidelines on reporting requirements.

I draw your attention to the UNODC and UNICEF's joint publication on "Justice in Matters involving Child Victims and Witnesses of Crime Model Law and Related Commentary" (http://www.unodc.org/documents/justice-and-prison-reform/Justice_in_matters...pdf)

Article 3. Duty to report offences involving a child victim or witness

- 1. Teachers, doctors, social workers and other professional categories, as deemed appropriate, shall have a duty to notify [name of competent authority] if they have reasonable cause to suspect that a child is a victim of or a witness to a crime.*
- 2. The persons referred to in paragraph 1 of this article shall assist the child to the best of their abilities until the child is provided with appropriate professional assistance.*
- 3. The duty to report established in paragraph 1 of this article supersedes any obligation of confidentiality, except in the case of lawyer-client confidentiality.*

Further, I draw your attention to ECOSOC Resolution 2005/20 Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (https://www.unodc.org/pdf/criminal_justice/Guidelines_on_Justice_in_Matters_involving_Child_Victims_and_Witnesses_of_Crime.pdf):

XII. The right to safety

- 32. Where the safety of a child victim or witness may be at risk, appropriate measures should be taken to require the reporting of those safety risks to appropriate authorities and to protect the child from such risk before, during and after the justice process.*
- 33. Professionals who come into contact with children should be required to notify appropriate authorities if they suspect that a child victim or witness has been harmed, is being harmed or is likely to be harmed.*

The UNODC-UNICEF model legislation requires that all persons working with a child victim or witnesses as well as all members of the national authority maintain the confidentiality of all information on child victims and witnesses (Article 7 on Confidentiality). Both Mr Kompass and the French authorities abided by this requirement. Mr Kompass provided the MINUSCA report to the French authorities in strict confidence.

UNODC, UNICEF and the International Bureau for the Children's Rights (IBCR) with the support of the Government of Canada, have developed a free online self-development tool available on the UNODC website (<https://www.unodc.org/justice-child-victims/>) which provides further guidance on the obligation to report a child at risk of abuse.

In contrast, current OHCHR guidelines on monitoring and reporting (see Manual on Human Rights Monitoring <http://www.ohchr.org/EN/PublicationsResources/Pages/MethodologicalMaterials.aspx>) focus inappropriately on maintaining confidentiality, in possible violation of a child's right to safety and a duty to report a crime against a child, including sexual abuse.

Furthermore, I draw your attention to the WHO guidelines on child sexual abuse (http://www.who.int/violence_injury_prevention/resources/publications/en/guidelines_chap7.pdf):

Section 7.5.2 Consent and confidentiality issues

“Codes of practice require all professionals to consider carefully their legal and ethical duties as they apply to patient confidentiality. The child and his/ her parents/guardian need to understand that health care professionals may have a legal obligation to report the case and to disclose information received during the course of the consultation to the authorities even in the absence of consent (see section 7.8.2 Reporting abuse)”

Section 7.8.2 Reporting abuse

“Every community has its own set of laws governing how, and to whom, a report regarding suspicion of child sexual abuse should be made. Most communities also have a mandatory reporting structure for professionals working with children and in many jurisdictions a failure to report child sexual abuse would constitute a crime. Typically the reporting law leaves the final determination as to whether or not abuse occurred to the investigators, not the reporters.”

The UN must abide by the basic standards it sets for Member states. The Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, prepared by David Kaye UN Special Rapporteur on Freedom of Expression, concludes that the legal guidelines developed by the United Nations for application by nation states apply also to the UN itself:

“All of the above principles applicable to States apply to the United Nations and other international organizations.”¹

When it became aware of the allegations of child sexual abuse in March 2014, the UN failed to take immediate action to report the individual children at risk in the M’Poko camp to the relevant authority (in this case the French Government which had assumed control over the camp), the children’s right to safety was undoubtedly violated (the abuse continued) and the UN’s own guidelines on the duty to report offences involving a child victim or witness were breached, as well as those issued by the WHO. The alleged abuse of the children continued until July 2014, and only stopped after Mr Kompass’ full disclosure.

I have provided a copy of this letter to the the Panel appointed by yourself to review the response of the United Nations to allegations of sexual misconduct by members of foreign military forces not under UN command in Central African Republic (CAR Review Panel). I remain confident that the Panel will address the overarching policy concerns and make

¹ Seventieth session, Item 73 (b) of the provisional agenda*. Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms. Promotion and protection of the right to freedom of opinion and expression

recommendations to ensure such a situation is not repeated, but it does not have the authority to address Mr Kompass' professional situation.

I understand that as the Secretary General of the United Nations, only you have the authority to stop the OIOS investigation into the so-called unauthorised disclosure by Mr Kompass of the allegations of child sexual abuse to the French government. Mr Kompass' disclosure of the children at risk in the M'Poko camp to the French government followed the guidance provided by the UNODC, UNICEF and the WHO, the three UN agencies arguably with the authority on the subject. The fact that OHCHR does not apply or implement the guidance issued by the UNODC, UNICEF and WHO for reporting children at risk is no excuse to maintain the Kompass investigation. Waiting for the recommendations of the CAR Review Panel is also unacceptable, given that UN staff must abide by the guidance existing at the time of the discovery of abuse, namely that issued jointly by the UNODC and UNICEF and by WHO, which confirms the duty to report a child at risk, even outside normal UN reporting lines. Moreover, as the Special Rapporteur's Report on Freedom of Expression makes clear, the United Nations must not exempt itself from the principles it applies to its Member states.

Given the joint guidance issued by UNODC and UNICEF on the obligation to report a child at risk of crime, and the WHO guidelines on reporting child sexual abuse, failure to stop the OIOS investigation into Mr Kompass' disclosure will further confirm our grave fears of abuse of authority in this matter.

Yours faithfully,



Miranda Brown