HUMAN RIGHTS WATCH

"The Power These Men Have Over Us"

Sexual Exploitation and Abuse by African Union Forces in Somalia

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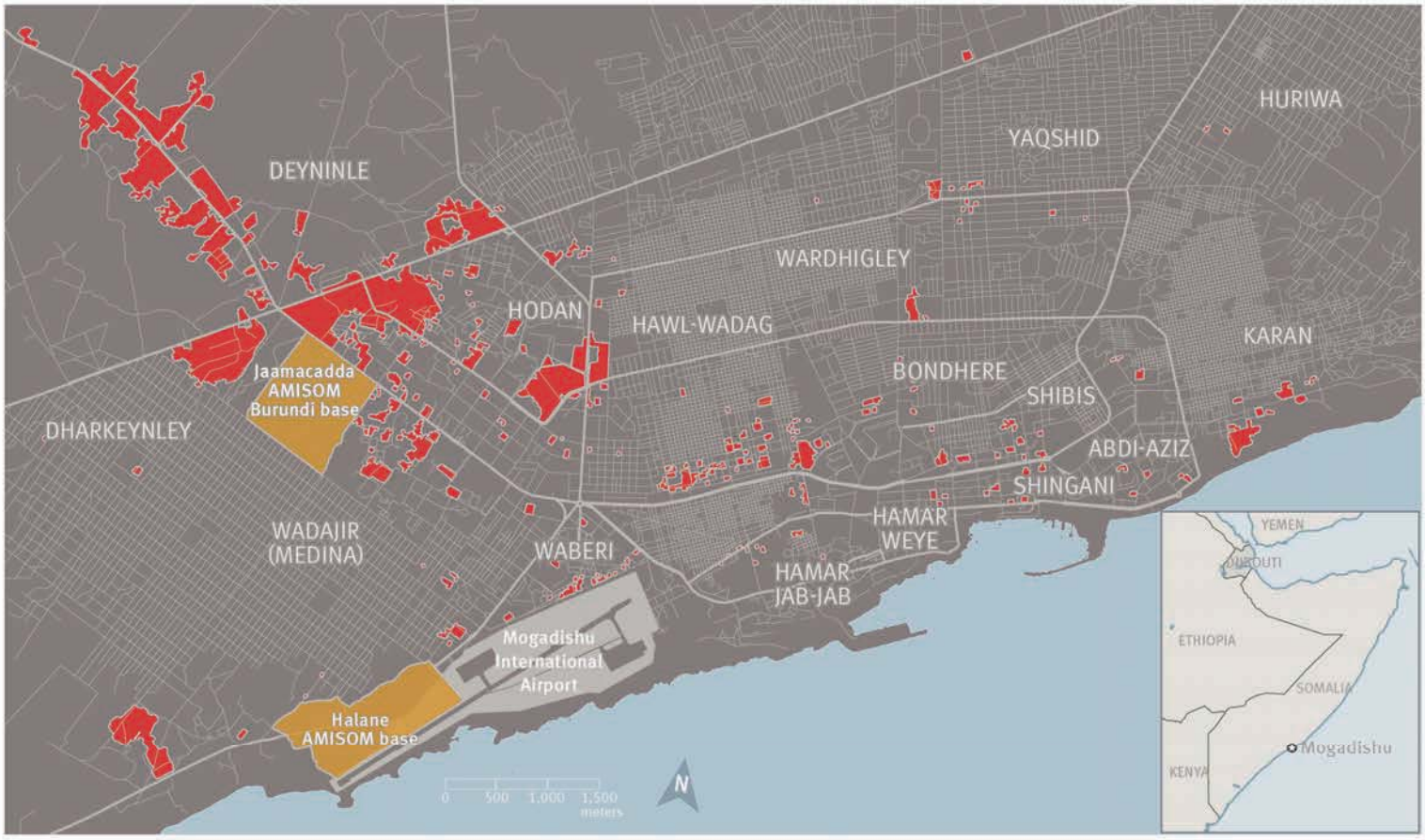

According to the UN, 369,000 people are displaced in Mogadishu alone, many of them women and girls.

IDP settlements in Mogadishu

SOURCES:
IDP camp locations produced by Human Rights Watch.
Road data from Open Street Maps.

Summary

> I was scared he would come back and rape me again or kill me. I want the government to recognize the power these men have over us and for them to protect us from them.
> —Farha A., victim of rape by an AMISOM soldier, Mogadishu, February 2014

In June 2013, a Somali interpreter working at the headquarters of the African Union Mission in Somalia (AMISOM) approached 17-year-old Aziza D.—not her real name—and asked her to "befriend" a Ugandan soldier. He told the girl, who had been struggling to survive in one of Mogadishu's camps for displaced people, that the soldier could get her anything she needed if she treated him like "he was her husband" and "made him feel comfortable."

After she met the soldier and it was clear that she was expected to have sex with him, she had second thoughts. The interpreter told her she could not leave and ignored her cries and pleas not to be left alone with him. "When I resisted the soldier's advances, he became angry and brought back the interpreter who threatened me in Somali," she told Human Rights Watch.

Years of conflict and famine in Somalia have increased the vulnerability of women and girls like Aziza D., displacing tens of thousands from their communities, often leaving them without their husbands' or fathers' or clan protection. Without resources or employment, many women and girls are reliant on outside assistance and forced to do whatever they can to sustain themselves and their families.

The United Nations, Human Rights Watch, and other organizations have documented high levels of sexual and gender-based violence against Somali women and girls, particularly the displaced. But the involvement of AMISOM soldiers has largely been overlooked, including by the mission's leadership and international donors. As this report shows, some AMISOM soldiers, deployed to Somalia since 2007 to help restore stability in the war-torn capital, Mogadishu, have abused their positions of power to prey on the city's most vulnerable women and girls. Soldiers have committed acts of rape and other forms of sexual abuse, as well as sexual exploitation—the abuse of a position of vulnerability, differential power, or trust, for sexual purposes.

This report is based on research in Somalia, Uganda, and Burundi. Its findings are based on 50 interviews including 21 interviews with survivors of sexual exploitation and abuse as well as interviews with witnesses, foreign observers including officials from troop-contributing countries, and other military personnel. The research documents incidents of sexual exploitation and abuse in the Somali capital, Mogadishu, predominantly by personnel of the Ugandan People's Defence Forces (UPDF) at and around AMISOM's headquarters, the AMISOM base camp, and at the camp of the Burundian National Defense Forces (BNDF) contingent in Mogadishu. All of the incidents documented in this report occurred since 2013.

Given the particularly complex and sensitive nature of this research topic, security concerns, as well as the profound reluctance of survivors and witnesses to speak out about their experience, Human Rights Watch did not asses the scale or prevalence of the abuse. Nonetheless, the findings raise serious concerns about abuses by AMISOM soldiers against Somali women and girls that suggest a much larger problem.

Human Rights Watch documented 10 separate incidents of sexual abuse, including rape and sexual assault, and 14 cases of sexual exploitation. Four of the rape cases and one sexual assault involved girls under eighteen. The youngest victim in the cases we investigated was a 12-year-old girl in the outskirts of Baidoa in May 2013 who was allegedly raped by a Ugandan soldier. According to court-martial officials in Uganda, there is a rape case of a minor pending before Uganda's military courts, but it is not clear if this is the same case.

Members of African Union (AU) forces, making use of Somali intermediaries, have employed a range of tactics to get private access to Somali women and then abuse them. Some AMISOM soldiers have used humanitarian assistance, provided by the mission, to coerce vulnerable women and girls into sexual activity. A number of the women and girls interviewed for this report said that they were initially approached for sex in return for money or raped while seeking medical assistance and water on the AMISOM bases, particularly the Burundian contingent's base. Others were enticed directly from internally displaced persons (IDP) camps to start working on the AMISOM base camp by female friends and neighbors, some of whom were already working on the base. Some of the women who were raped said that the soldiers gave them food or money afterwards in an

apparent attempt to frame the assault as transactional sex or discourage them from filing a complaint or seeking redress.

The women and girls exploited by the soldiers are entering into the AMISOM camps through official and guarded gates, and into areas that are in theory protected zones. Human Rights Watch was aware of a few cases in which the women were given official badges to facilitate their entrance. Sexual exploitation has also taken place within official AMISOM housing. These practices all point toward the exploitation and abuse being organized and even tolerated by senior officials.

Most of the women interviewed for the report were sexually exploited by a single soldier over a period of weeks and even months, although some had sex with several soldiers, notably at the Burundian contingent's base.

The line between sexual exploitation and sexual abuse is a fine one given the vulnerabilities of the women and the power and financial disparities between them and the soldiers. The women who are sexually exploited become vulnerable to further abuse at the hands of the soldiers, and are also exposed to serious health risks. Several women said that the soldiers refused to wear condoms and that they had caught sexually transmitted infections as a result. Several also described being slapped and beaten by the soldiers with whom they had sex.

Only 2 out of the 21 women and girls interviewed by Human Rights Watch had filed a complaint with Somali or other authorities. Survivors of sexual violence fear reprisals from perpetrators, the government authorities, and the Islamist insurgent group Al-Shabaab, as well as retribution from their own families. Some said they felt powerless and worried about the social stigma they would face if their complaint was to be made public. Others questioned the purpose of complaining when such limited recourse is available. Some were reluctant to lose their only source of income.

The UN secretary-general's 2003 *Bulletin on special measures for protection from sexual exploitation and sexual abuse,* a groundbreaking policy document that catalyzed a range of policy statements on sexual exploitation and abuse in UN peacekeeping missions, explicitly prohibits peacekeepers from exchanging any money, goods, or services for sex. Its definition of exploitation encompasses situations where women and girls are

vulnerable and a differential power relationship exists. This definition, which has become the international norm, means that whether a woman has consented to engage in sex for money is irrelevant in the peacekeeping context. The African Union Commission's Reviewed Code of Conduct (AUC Code of Conduct), with which AMISOM troop-contributing countries must comply, prohibits sexual exploitation and abuse.

Until displaced women and girls in Somalia obtain the means to move beyond mere survival, they will remain vulnerable to sexual exploitation and abuse. They should no longer be faced with the same predicament as 19-year-old Kassa D.: "I was worried, I wanted to run but I knew that the same thing that brought me here would get me through this—my hunger," she said. "I had made a choice and I couldn't turn back now."

As in international peacekeeping operations, all AMISOM personnel, including locally recruited Somalis, are immune from local legal processes in the country of deployment for any acts they perform in their official capacity. The troop-contributing countries—the countries from which the troops originate—have exclusive jurisdiction over their personnel for any criminal offenses they commit. However, they are bound both by memorandums of understanding (MoUs) signed with the AU prior to deployment and by their international human rights and humanitarian obligations to investigate and prosecute serious allegations of misconduct and crimes.

AMISOM troop-contributing countries, to varying degrees, have established procedures to deal with their forces' misconduct. Troops have received pre-deployment trainings on the AUC Code of Conduct, and legal advisors and military investigators have been deployed to Somalia to follow-up on allegations of misconduct. Most importantly, the Ugandan forces deployed a court martial to Mogadishu for a year in 2013. Holding in-country courts martial can help to facilitate evidence gathering, serve as a deterrent, ensure that witnesses are available to testify, and assure victims that justice has been served. The court has since been called back to Uganda.

After initially denying allegations of sexual abuse, the AMISOM leadership has started to take some measures to tackle the problem. In particular, AMISOM developed a draft *Policy on prevention and response to sexual exploitation and abuse* (PSEA policy) in 2013 and has also begun to put in place structures to follow-up on sexual exploitation and abuse.

However, the draft policy will need to be significantly strengthened if it is to be effective. In addition, outreach activities carried out so far appear primarily focused on protecting AMISOM's image rather than addressing the problem. There are still no complaint mechanisms and little or no capacity to investigate abuses. Above all, there is not enough political will among AMISOM troop-contributing countries to make the issue of sexual exploitation and abuse a priority and proactively deploy the necessary resources to tackle the problem.

Ending sexual violence and exploitation by AMISOM forces should start with developing the political will among the political and military leadership in troop-contributing countries to end impunity for perpetrators of abuse, and ensure survivors are adequately supported. First and foremost, troop-contributing countries should significantly reinforce their capacities to pursue investigations and prosecutions inside Somalia. They should send adequate numbers of trained investigators and prosecutors to Somalia and, where appropriate, hold courts martial inside Somalia.

The AU and AMISOM need to foster an organizational culture of "zero tolerance" where force commanders do not turn a blind eye to unlawful activities on their bases. Commanding officers should do more to prevent, identify, and punish such behavior.

The AU should promptly set up conduct and discipline units within peace support operations and an independent and adequately resourced investigative unit that is staffed by independent and qualified members. AMISOM should also ensure systematic collection of information on allegations, investigations, and prosecutions of sexual exploitation and abuse, and commit to publicly report on an annual basis to the AU on this issue.

These measures will also need to go hand-in-hand with efforts to prevent sexual exploitation and abuse on AMISOM bases, including systematic vetting of all forces to ensure those implicated in sexual exploitation and abuse in the past are not deployed, and proactively recruiting more women into their forces, particularly the military police.

Greater independent oversight of the conduct of AMISOM troops is also needed. AMISOM's international donors, particularly the United Nations, European Union, United States, and United Kingdom should ensure that the UN Assistance Mission in Somalia (UNSOM) has a strong human rights unit and is able to implement the secretary-general's Human Rights

Due Diligence Policy, which seeks to ensure that the UN does not support abusive non-UN forces. International donors should ensure that if there are substantial grounds to believe that forces they support are committing widespread or systematic violations of international human rights or humanitarian law, including sexual exploitation and abuse, and the relevant authorities have failed to take the necessary corrective or mitigating measures, this support should be withdrawn.

Abuse of Power: Defining Sexual Exploitation and Abuse

The UN secretary-general's 2003 *Bulletin on special measures for the protection from sexual exploitation and sexual abuse by UN and related personnel* states that:

- Sexual abuse is "the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions."
- Sexual exploitation is "any actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another."

The Bulletin explicitly prohibits any "exchange of money, employment, goods or services for sex, including sexual favours or other forms of humiliating, degrading or exploitative behavior." It further prohibits peacekeepers from engaging in any sexual activity with persons under the age of 18, regardless of the age of sexual consent in the country.[1]

[1] UN secretary-general's *Bulletin on special measures for protection from sexual exploitation and sexual abuse*, ST/SGB/2003/13, 9 October 2003. http://cdu.unlb.org/Portals/0/Documents/KeyDoc4.pdf (accessed August 15, 2014)

Key Recommendations

To AMISOM Troop-Contributing Countries (Uganda, Burundi, Ethiopia, Kenya, Djibouti, and Sierra Leone) and Police Contingents

- Hold on-site courts martial in Somalia, either by deploying a permanent court martial to areas of operation or by sending courts martial to Somalia on a regular basis;
- Carry out a thorough background check of all individuals deployed to Somalia to ensure that those implicated in serious violations of international humanitarian or human rights law, including sexual violence, are under investigation, have pending charges, or have been subjected to disciplinary measures or criminal conviction for such abuses, are excluded.

To the African Union Mission in Somalia (AMISOM)

- Urgently finalize the draft *Policy on prevention and response to sexual exploitation and abuse* (PSEA policy) after reviewing and amending it to ensure that it serves as an effective prevention instrument.

To the African Union Peace and Security Council

- Establish a permanent and adequately resourced independent investigative body, staffed by professional and independent investigators, to investigate allegations of misconduct and abuses, including sexual exploitation and abuse, in all AU peace support operations; the body should investigate abuses by military, police, and civilian personnel.

To the African Union Commission

- Compile and publicly release an annual report on investigations into sexual exploitation and related offenses and relevant actions taken by AU peace support operations, including AMISOM, and the AU more generally, to address the violations.

To the African Union Peace Support Operations Division

- Promptly establish a professional and permanent conduct and discipline unit for AMISOM, and other peace support operations, to formulate policies and carry out appropriate training of all AMISOM staff, and to refer misconduct allegations to the appropriate investigative authorities.

To AMISOM Donors including the UN, EU, UK, and US

- If there are substantial grounds to believe that personnel of peace support operations forces are committing serious violations of international human rights or humanitarian law, including sexual exploitation and abuse, and where the relevant authorities have failed to take the necessary corrective or mitigating measures, raise public concern and urge the AU and the troop-contributing country to carry out immediate investigations;
- If substantial allegations are not adequately addressed, consider ending military assistance to AU peace support operations forces, including AMISOM. No assistance should be provided to any unit implicated in abuses for which no appropriate disciplinary action has been taken.

Methodology

This report is based on two fact-finding missions to Mogadishu, Somalia in August 2013 and February 2014 and research in Burundi and Uganda in April 2014. Between September 2013 and February 2014, a Mogadishu-based consultant interviewed Somali women and girls who alleged being abused on AMISOM bases. Security and concerns for the safety of interviewees prevented research in other parts of Somalia. Researchers conducted additional interviews in Nairobi, Kenya.

In Mogadishu, Human Rights Watch interviewed 21 Somali women and girls who said they were victims of sexual exploitation and abuse by AMISOM troops. Human Rights Watch worked with local contacts who helped identify women willing to be interviewed for this report. The majority of women lived in makeshift shelters in camps for IDPs in and around Mogadishu. Importantly, and contrary to the experience of many survivors of sexual exploitation and abuse in Somalia, all victims interviewed for this report had already received some basic assistance from service providers. This included Post-Exposure Prophylaxis (PEP) kits for some of the rape victims and antibiotics for the women who had sexually transmitted infections.

Interviewees were fully informed about the nature and purpose of the research and how the information they provided would be used. Human Rights Watch obtained oral consent for each of the interviews. No incentives were provided to individuals in exchange for their interviews. All the interviews were conducted in person, in private, and in Somali with a female interpreter. Care was taken to ensure that interviews about past traumatic events did not further traumatize interviewees and all the women interviewed had access to a local organization providing counseling and other services. The names of women and girls have been withheld and replaced by pseudonyms for their security.

Human Rights Watch did not request to visit military bases on which these abuses took place because of concerns regarding confidentiality and the risk of reprisals against survivors or witnesses following such a visit.

Investigating sexual exploitation and abuse is particularly complex and sensitive in peacekeeping contexts given the stigma associated with these abuses, and the volatile

and insecure contexts in which they occur. As described in the Abuses Section of this report, survivors of sexual violence interviewed as part of this research voiced reluctance to talk about their experience due to a very real fear of reprisals from their families, perpetrators, and the Islamist insurgent group Al-Shabaab. Those engaged in sex in exchange for money also said they did not want to lose their main source of income. These factors made it especially difficult to interview large numbers of women to assess the scale or prevalence of such abuses.

Yet, as is highlighted in the accounts, a number of the women and girls interviewed described seeing other women and girls facing similar experiences on the AMISOM bases or being recruited by those already engaged in sex for money on the bases. This would indicate that the total number of women and girls subject to sexual exploitation and abuse by AMISOM soldiers is larger than the sample presented in this report.

With two exceptions, all the cases documented took place on the AMISOM base camp and base of the Burundian contingent. This does not preclude the possibility that similar abuses have occurred on or in the vicinity of other AMISOM bases and outposts in Somalia, for instance in the cities of Kismayo and Baidoa where Human Rights Watch did not conduct interviews due to security concerns.

Similarly, while almost all the women and girls interviewed for this report are from internally displaced communities, Human Rights Watch also received credible reports of women and girls from Mogadishu providing sex for money to AMISOM soldiers on the airport base, and in some cases, living on that base. Human Rights Watch was unable to interview any of those women and girls.

In Uganda and Burundi, Human Rights Watch interviewed 20 military court officials and other military personnel including officials from Uganda's and Burundi's offices of the military chiefs of staff, military legal advisors, officers who had formerly served in Somalia, as well as private lawyers and journalists. Human Rights Watch also interviewed 10 other witnesses to sexual abuse or exploitation, including employees on AMISOM bases and international observers.

In May and June 2014, Human Rights Watch sent letters with a summary of findings and recommendations, along with research queries, to the Special Representative of the

Chairperson of the African Union Commission for Somalia (SRCC), the force commander of the African Union Mission in Somalia, the African Union's special envoy for women, peace and security, the chief of Defence Forces for the Ugandan People's Defence Forces (UPDF), and the chief of staff of the Burundian National Defense Forces (BNDF), and requested their responses.[2] The responses of the SRCC and the BNDF are included in the annexes. Human Rights Watch was in email correspondence with the UPDF.

[2] See Annex 2 (Response of the chief of staff of the Burundian National Defense Forces, Général Prime Niyongabo, to Human Rights Watch's letter) and Annex 3 (Response from Ambassador Mahamat Saleh Annadif's to Human Rights Watch's Letter).

I. Background

Since the fall of the Siad Barre regime in 1991, state collapse and civil war have contributed in making Somalia one of the world's worst human rights and humanitarian crises. The armed conflict has led to rampant violations of the laws of war, including unlawful killings, rape, torture, and looting, committed by all parties to the conflict, causing massive civilian suffering.[3] The most recent phase of the conflict began in December 2006 when Ethiopia intervened militarily to oust the Islamic Courts Union (ICU) and support the UN-backed Somali Transitional Federal Government (TFG).[4] This intervention, in turn, triggered an insurgency against the Ethiopian and Somali government forces. The armed youth wing of the ICU, Al-Shabaab, emerged as the most powerful armed opposition group in south-central Somalia. [5]

Fighting and famine during Somalia's long war have displaced millions of people, often repeatedly, either internally or as refugees beyond the country's borders.[6]

In 2011, a devastating famine emerged from a combination of drought, fighting in Mogadishu, ongoing conflict in southern areas of the country, and restrictions on access for humanitarian agencies.[7] The famine and conflict prompted new large-scale displacement. Assessments of the total number of displaced persons in Mogadishu estimated that at least 150,000 people arrived in the capital in 2011 as a result of the famine.[8]

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[3] For a more detailed description of abuses committed between 2006-2009 see Human Rights Watch, *Shell-Shocked: Civilians Under Siege in Mogadishu*, vol. 19, no. 12(A), August 2007, http://www.hrw.org/node/10784; also see Amnesty International, "Routinely Targeted: Attacks on Civilians in Somalia," AI Index: AFR 52/006/2008, June 1, 2008, http://www.amnesty.org/en/library/info/AFR52/009/2008/en.9. (accessed June 16, 2014)

[4] Ibid. See also, Human Rights Watch, *So Much to Fear: War Crimes and the Devastation of Somalia*, December 2008, http://www.hrw.org/node/76418/section/7.

[5] For a more detailed description of abuses committed by Al-Shabaab see Human Rights Watch, *Harsh War, Harsh Peace: Abuses by al-Shabaab, the Transitional Federal Government and AMISOM in Somalia*, April 19, 2010, http://www.hrw.org/reports/2010/04/19/harsh-war-harsh-peace; Human Rights Watch, *No Place for Children: Child Recruitment, Forced Marriage and Attacks on Schools in Somalia*, February 20, 2012, http://www.hrw.org/reports/2012/02/20/no-place-children

[6] According to the United Nations, over 1.1 million people are currently displaced within Somalia, and there are approximately 1 million Somali refugees throughout the Horn of Africa.

[7] According to a UN study published in the famine's aftermath, 260,000 people died during the famine, half of whom were children under age 5. "Somalia famine killed nearly 260,000 people, half of them children – reports UN," UN News Centre, May 2, 2013, http://www.un.org/apps/news/story.asp?NewsID=44811#.U38e57eKB1s.

[8] An October 2011 UN inter-agency assessment found 184,000 IDPs in Mogadishu, the majority of whom arrived between July and September 2011. OCHA, "Mogadishu – Fact Sheet," May 2012, http://reliefweb.int/sites/reliefweb.int/files/resources/Somalia_Fact%20Sheet_%20Mogadishu_May%202012.pdf

Violence and dire humanitarian conditions mark daily life for Mogadishu's IDP population. In a March 2013 report, Human Rights Watch documented serious abuses committed by members of state security forces and armed groups, as well as private individuals controlling the town's hundreds of camps, against the displaced between 2011 and early 2013. The displaced have been subjected to rape, beatings, ethnic discrimination, and restrictions on access to food, shelter, and freedom of movement.[9] More recently, the UN and international humanitarian organizations have warned of a deteriorating food crisis in Somalia, with particularly alarming rates of malnutrition in Mogadishu's displaced communities.[10]

Vulnerability of Displaced Women and Girls in Mogadishu

Women and girls constitute a significant proportion of Mogadishu's displaced population and often suffer sexual abuse by armed men—including both regular soldiers and irregular militia—who rarely face justice.[11] The unequal status of women and girls in Somali society sharply increases their vulnerability to gender-based violence during humanitarian crises. In displaced persons camps, disruptions to community support structures, unsafe physical surroundings, separation from families, and patriarchal governing structures often heighten such vulnerability to gender-based violence. [12]

Somalia's social system, governed in part by traditional clan structures, leaves displaced women and girls from minority ethnic groups and less powerful clans especially vulnerable to violence due to their social isolation, poor living conditions, and work opportunities.[13] Women and girls from such groups often have very limited access to education and many are unaware of and isolated from the justice system and other government services.

(accessed December 16, 2012). A June 2012 survey by the International Committee of the Red Cross (ICRC) identified 369,288 IDPs in Mogadishu. According to the ICRC, 40 percent of the current displaced population in Mogadishu had arrived since 2011 as a result of the famine. ICRC, "Mogadishu IDP Survey," June 2012, on file with Human Rights Watch.

[9] Human Rights Watch, *Hostages of the Gatekeepers: Abuses against Internally Displaced in Mogadishu, Somalia*, March 2013, http://www.hrw.org/reports/2013/03/28/hostages-gatekeepers.

[10] OCHA, "Humanitarian Bulletin Somalia. June 2014," July 24, 2014, http://reliefweb.int/sites/reliefweb.int/files/resources/OCHA%20Somalia%20Humanitarian%20Bulletin%20June%202014.pdf (accessed August 6, 2014).

[11] Human Rights Watch, *Somalia—Here, Rape is Normal*, February 2014, http://www.hrw.org/reports/2014/02/13/here-rape-normal.

[12] Ibid.; see also, Beth Vann, "Gender-Based Violence, Emerging Issues in Programs Serving Displaced Populations" *JSI Research and Training Institute on behalf of the Reproductive Health for Refugees Consortium* (2002); Jeanne Ward, "If Not Now, When? Addressing Gender-based Violence in Refugee, Internally Displaced, and Post-conflict Settings, A Global Overview," *The Reproductive Health for Refugees Consortium* (2002).

[13] Many of these people, displaced as a result of the famine in mid-2011, were from the Rahanweyn and Bantu communities, which have traditionally been marginalized groups with limited protection networks in Mogadishu. See Human Rights Watch, *Hostages of the Gatekeepers*.

The African Union Mission in Somalia (AMISOM)

In 2007, the African Union Peace and Security Council deployed a regional peace support force to Somalia mandated by the UN Security Council and supported by the AU's Peace and Security Operations Division to provide protection for Somali government officials and infrastructure and contribute to the secure delivery of humanitarian assistance.[14] AMISOM was also given a mentoring role to support the "re-establishment and training" of Somali security forces.[15] Since then, AMISOM's mandate, size, and geographical presence have all steadily increased.

In AMISOM's first four years, Uganda and Burundi were the only troop-contributing countries. Currently, AMISOM also includes personnel from Kenya, Ethiopia, and small contingents from Djibouti and Sierra Leone, as well as police contingents from Nigeria and Ghana.[16]

AMISOM's area of operations has been expanded outside the capital to other parts of south-central Somalia. In November 2013, Security Council Resolution 2124 authorized AMISOM to increase its force strength from 17,731 to 22,126 uniformed personnel.[17] More recently, in May 2014, the UN deployed a new guard unit comprised of 410 Ugandan soldiers to protect UN staff in Mogadishu; this force falls under the UN mandate and is

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[14] The UN Security Council passed Resolution 1744 in February 2007. United Nations Security Council, Resolution 1744 (2007), S/RES/1744 (2007), http://www.un.org/News/Press/docs/2007/sc8960.doc.htm (accessed May 14, 2014).

[15] Ibid., para. 4. AMISOM's mandate and force strength were expanded in Security Council Resolution 2036 (2012) paras. 1 and 2; under its expanded mandate, AMISOM was authorized "to take all necessary measures as appropriate in those sectors in coordination with the Somali security forces to reduce the threat posed by Al-Shabaab and other armed opposition groups in order to establish conditions for effective and legitimate governance across Somalia." The resolution also authorized AMISOM to increase its force strength from 8000 to 17,731 uniformed personnel, including both troops and personnel of formed police units. AMISOM has not been given a civilian protection mandate despite a pressure from the AU.

[16] Kenya unilaterally deployed the Kenya Defence Force (KDF) in Somalia in October 2011, then joined AMISOM in June 2012. For more on abuses by the KDF during its early deployment, see "Kenya: Respect Law in Somalia Military Operations," Human Rights Watch news release, November 18, 2011, http://www.hrw.org/news/2011/11/18/kenya-respect-law-somalia-military-operations; "Kenya: Investigate Bombing of Somali Village," Human Rights Watch news release, December 21, 2011, http://www.hrw.org/news/2011/12/21/kenya-investigate-bombing-somali-village. Ethiopia withdrew its troops from Mogadishu in 2009 but maintained some troops in western Somalia throughout this period, operating outside of AMISOM. Approximately 4,000 Ethiopian troops were integrated into AMISOM in January 2014. See AMISOM, "Ethiopian Troops Formally Join AMISOM Peacekeepers in Somalia," http://amisom-au.org/2014/01/ethiopian-troops-formally-join-amisom-peacekeepers-in-somalia/(accessed May 20, 2014). See also, United Nations Security Council, "Letter dated 14 October 2013 from the Secretary-General Addressed to the President of the Security Council," October 14, 2013, S/2013/606, http://unsom.unmissions.org/Portals/UNSOM/SG%20Letter%20to%20SC%20-%2014%20October%202013.pdf (accessed June 17, 2014). Kenya, Uganda, Sierra Leone, Gambia, Zimbabwe, and Burundi also contribute police forces.

[17] United Nations Security Council, Resolution 2124 (2013), S/RES/2124 (2013), http://amisom-au.org/wp-content/uploads/2013/01/UNSCR-2124-12-Nov-2013.pdf (accessed May 19, 2014), para. 3.

therefore regulated by UN rules and regulations, but the rest of the uniformed AMISOM forces are regulated by the AU.[18]

AMISOM receives significant international financial and logistical support as it has been generally credited with having pushed Al-Shabaab out of Mogadishu in mid-2011 and out of other towns since 2012, as well as having provided security to the weak central government in Mogadishu. AMISOM is supported by the UN (logistically and financially), the EU, and bilateral donations—namely from the US, the UK, Japan, Norway, and Canada. The largest cash contributors to the mission are the US, the EU, and the UK.[19]

AMISOM Structure and Presence in Mogadishu

AMISOM is headed by the Special Representative of the Chairperson of the African Union Commission for Somalia (SRCC), a political appointee who oversees the civilian component of the mission, including the mission's gender unit, established in October 2012.

The military troops are led by a force commander who rotates among the troop-contributing countries. As of August 2014, it was headed by Lt. Gen. Silas Ntigurirwa from Burundi and two deputies from Uganda and Kenya. [20] The six troop-contributing countries

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[18] "Somalia: UN Deploys new Special Force to Protect Staff in Mogadishu," UN News Centre, May 18, 2014, http://www.un.org/apps/news/story.asp?NewsID=47820#.U5VjrbeKBMs (accessed June 9, 2014).

[19] The US has contributed US$512 million to AMISOM since 2007. US Department of State, "U.S. Welcomes Joint AMISOM-Somali National Army Efforts Against Al-Shabaab," press statement, March 12, 2014, http://www.state.gov/r/pa/prs/ps/2014/03/223388.htm (accessed August 15, 2014). Between 2007 and December 2013, the EU committed a total of €583 million from the African Peace Facility to AMISOM. See European Parliament, "Answer given by Mr. Piebalgs on behalf of the Commission," Parliamentary questions, January 6, 2014, http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=E-2013-012873&language=EN (accessed June 18, 2014). In 2013 alone, €200 million were committed via the African Peace Facility to AMISOM. See African Union Commission/ European Union, " African Union Commission and the European Union hold 9th meeting of the Africa Peace Facility (APF) Joint Coordination Committee," Joint Press Release, June 3, 2014, http://www.peaceau.org/uploads/auc-com-press-jcc.pdf (accessed July 23, 2014). In 2013, the UK has contributed about £52 million. This figure includes EU and UN assessed contributions as well as bilateral support. Human Rights Watch email correspondence with Foreign and Commonwealth Office official, June 23, 2014. The UN financial support is channeled through an UN-managed Trust Fund in Support of AMISOM that was established in 2009 per Security Council Resolution 1863. Security Council, Resolution 1863 (2009), para. 8. The budget for the United Nations Support Office for the African Union Mission in Somalia (UNSOA), which is mandated by the UNSC to provide a logistical support package to AMISOM, for the period from 1 July 2013 to 30 June 2014, amounts to $448,439,200, United Nations General Assembly, A/67/712, http://www.un.org/ga/search/view_doc.asp?symbol=A/67/712 (accessed August, 4, 2014); for the period from July 1 2014 to June 30, 2015, UNSOA's budget has increased to $448,439,200, United Nations General Assembly, A/68/745, http://www.un.org/ga/search/view_doc.asp?symbol=A/68/745,(accessed August, 4, 2014).

[20] AMISOM, "Frequently Asked Questions," 2014, http://amisom-au.org/frequently-asked-questions/ (accessed June 17, 2014).

are deployed across six different sectors in south-central Somalia and each country has a contingent commander.[21]

The AMISOM Force Headquarters, also known as AMISOM base camp, is located in a former Somali military training camp known as Halane, near Mogadishu's airport. That base camp hosts the office of the SRCC, the mission's civilian component, the AMISOM force commander, and the AMISOM police.

An increasing number of embassies and other entities have set up a presence within the large compound of Mogadishu International Airport (MIA). These include UN offices such as the United Nations Support Office for the African Union Mission in Somalia (UNSOA), the UN Assistance Mission in Somalia (UNSOM), as well as the EU Training Mission (EUTM), and diplomatic missions. The Ugandan armed forces, in particular, provide security at the AMISOM base camp as well as perimeter security for the larger airport compound.

The Ugandan contingent command, initially located on the AMISOM base camp, has moved to the Mogadishu Stadium but continues to divide time between the stadium and the AMISOM base camp.[22] The Ugandan contingent has other bases in Mogadishu, including the Maslah camp in the Huriwa district of northern Mogadishu, and Ugandan soldiers are also deployed at key government and other strategic locations to provide security.

The Burundian contingent's base camp is at the compound of Mogadishu's national university, known as Jaamacadda Ummadda, near X-Control, which is the main checkpoint on the road out of Mogadishu towards the Afgooye corridor. This base camp is surrounded by IDP camps. These include the X-Control camp and further away, the Badbaado and Zona K camps.[23] The Burundian armed forces have at least three other bases in Mogadishu.[24]

The Ugandan contingent operates two medical units on the AMISOM base camp: a hospital primarily reserved for AMISOM soldiers, Somali government soldiers, and staff working with the AU, and another, known as the outpatient department, which is open to the

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[21] For more details on the different sectors see AMISOM, "AMISOM Military Component," 2014, http://amisom-au.org/mission-profile/military-component/ (accessed June 17, 2014).

[22] Human Rights Watch email correspondence with former civilian contractor, June 17, 2014.

[23] See Human Rights Watch, *Hostages of the Gatekeepers*.

[24] Human Rights Watch email correspondence with former civilian contractor, June 17, 2014.

Somali public twice a week.[25] Similarly, the Burundian contingent's base has an outpatient department that is open to the public twice a week.

On the AMISOM base camp, the soldiers are housed in tents while high-ranking officers are either housed in prefabricated structures or within office buildings. Some of these buildings were built for the purpose of hosting AMISOM whereas others were pre-existing structures.[26]

Many Somalis work on the AMISOM base camp and the MIA compound, including as cleaners, construction workers, and interpreters.[27] The UN and other international agencies have restricted access for Somalis, particularly women, to their compounds.[28] There are also shops inside the base camp and in the airport, primarily run by Somali women selling a whole range of goods including electronics, clothing, and food. One of the busiest areas is the "Marine" Market area at the northern side of the airport runway, which is controlled and regulated by AMISOM, and previously primarily by the UPDF, but outside the AMISOM base camp and accessed through a separate gate, Marine gate.

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[25] The UPDF also has medical facilities at two other bases—the Maslah base in Huriwa district and the Aruba Hotel in Shangani district. Human Rights Watch email correspondence with former civilian contractor, June 17, 2014.

[26] Human Rights Watch email correspondence with former diplomatic advisor, Nairobi, June 17, 2014.

[27] Human Rights Watch research found that many interpreters were women. However, while many of the Somali intermediaries facilitating women and girls access to the base for exploitative sex claimed to be interpreters, they may have been merely passing themselves off as interpreters as a cover. Human Rights Watch interview with Somali civilian contractor, Mogadishu, February 26, 2014; interview with former BNDF contingent official, Bujumbura, April 7, 2014.

[28] Human Rights Watch email correspondence with former diplomatic advisor, June 17, 2014.

II. Sexual Abuse and Exploitation by AMISOM

Human Rights Watch documented twenty-one incidents of sexual exploitation and abuse by AMISOM soldiers occurring primarily on two AMISOM bases in Mogadishu: the AMISOM base camp largely controlled by the UPDF and the base camp of the BNDF contingent at the compound of the Somali national university.

While Human Rights Watch's research did not find a pattern of abuse that could be considered systematic, and its researchers did not investigate all locations where AMISOM forces are deployed, the findings raise serious concerns about abuses by AMISOM soldiers against Somali women and girls. Survivors of assault and exploitation said that they felt powerless, feared retaliation or retribution, as well as the stigma and shame that the abuse could bring, while others did not want to lose their only source of income.

Human Rights Watch's findings corroborate and expand upon previous reports by UN agencies and the Security Council Monitoring Group on Somalia and Eritrea (SEMG), which noted that allegations of sexual exploitation and abuse "continue to emerge." [29]

Rape and Sexual Assault by AMISOM Soldiers

Human Rights Watch documented 10 separate incidents of rape and sexual assault by AMISOM personnel. Seven women and girls described being raped and one girl being sexually assaulted by AMISOM soldiers on the two camps in Mogadishu. In one case, the woman said that a soldier raped her and that soldiers gang raped three other women who were with her at the same time. Human Rights Watch documented two other cases—an alleged gang rape of a woman at Maslah camp, the UPDF base in north Mogadishu, and a

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29 UNDP, UNPOS, and UN Woman, "Violence in the Lives of Girls and Women in the Somali Republic," 2012, on file with Human Rights Watch. The report assessed types of violence against women and girls in Somalia and included allegations of sexual exploitation by AMISOM forces in exchange for money and food. The report of SEMG identified three types of allegations regarding AMISOM's exploitation of women and girls. First, female interpreters waiting for employment on the AMISOM base were identified as vulnerable to abuse. Second, soldiers asked women seeking medical services at the AMISOM-run hospital on the Mogadishu base to exchange sex for access to medical services. Third, some shopkeepers on the AMISOM base were there only to bring women to soldiers for the purposes of prostitution. In addition there were instances of food being provided for sex at AMISOM outposts elsewhere in the country. In July 2013, the SEMG reported that allegations of sexual exploitation and abuse are regularly leveled against AMISOM but that the mission lacks procedures to address these allegations systematically. See UN Security Council, "Letter dated 12 July 2013 from the Chair of the Security Council Committee pursuant to resolutions 751 (1992) and 1907 (2009) concerning Somalia and Eritrea addressed to the President of the Security Council," July 12, 2013, S/2013/413, http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2013_413.pdf (accessed June 11, 2014), para. 141; Annex 8.2, paras. 35 through 40.

case of child rape on the outskirts of Baidoa town by a Ugandan soldier. With one exception, all the cases occurred in 2013 and 2014.

In all the incidents documented in this report, Somali intermediaries, often men allegedly working as interpreters either at the entrance of the base camps or in the camp hospitals facilitated soldiers' access to the women and girls. In most of these cases, soldiers raped women and girls who were trying to access medicine or humanitarian services at the Burundian contingent's base near an area of Mogadishu known as X-Control.

In late 2013, 15-year-old Qamar R. went to the Burundian X-Control base to get medicine for her sick mother.[30] An interpreter told her to follow two Burundian soldiers who would give her the medicine. She followed them to a remote area similar in structure to a military bunker behind a thick fence, and one of the soldiers proceeded to rape her, while the second one walked around. She told Human Rights Watch: "First he ripped off my hijab and then he attacked me." As she was leaving, the second Burundian soldier waved her to come over to him and gave her US$10.

Other women who were raped also said that the soldiers gave them food or money after the attack in an apparent attempt to frame the assault as transactional sex and to discourage the women from complaining to authorities. In January 2014, Ayanna S., a displaced person, went to the Burundian X-Control base on a Monday to get medicine for her sick baby.[31] A Somali interpreter working at the base told her to come back alone without her baby. When she returned the next day that the outpatient clinic was opened to the public, the same Somali man called her and three other young women over to a fenced area next to some sandbags. There, six uniformed Burundian men were waiting. Ayanna S. said the soldiers held them at gunpoint, dragged them into a bunker area, and threatened them. The Burundian soldiers then beat and raped the women, badly injuring one.

"We carried the injured woman home. Three of us walked out of the base carrying her," said Ayanna S. "She couldn't stand. She couldn't put weight on her leg. The Burundians were still there as we were leaving. They gave us porridge, cookies, and five [US] dollars,

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[30] Human Rights Watch interview with Qamar R., Mogadishu, February 7, 2014. All names of survivors used in the report are pseudonyms

[31] Human Rights Watch interview with Ayanna S., Mogadishu, February 7, 2014.

but they didn't say anything to us, they threw the items at us and a bag to put them in. We carried them with the girl. We never got our prescriptions." [32]

In another case, a Somali girl was raped after a soldier first tried to pay her to have sex. In June 2013, Aziza D., 17, was approached by her neighbor, an AMISOM interpreter, to befriend Ugandan soldiers in exchange for goods.[33] The interpreter did not explicitly tell Aziza D. that she would have to have sex with the soldier, but said she had to treat the soldier "like he was her husband" and "make him feel comfortable."[34] She agreed and the next morning she went with him to the Ugandan base near the airport.

Aziza D. explained what happened on the base:

> I saw four other girls as I waited. Each girl was led to a different tent by the interpreter. The interpreter introduced me to a much older Ugandan soldier. I told the interpreter I was having second thoughts and wanted to leave but he said I couldn't since my face was already shown inside the base, I would not be permitted to leave.

Aziza D. said she started to cry and pleaded with the interpreter not to leave her alone with the Ugandan soldier, but he did. When she resisted the soldier's attempts to have sex with her, he became angry and brought back the interpreter who then verbally threatened her in Somali. Ultimately, she felt she had no choice but to have sex with the soldier. Afterwards, she was given $10 and a bag of apples: "I did it because I was threatened.... It was either do as he wants or die."[35]

Sexual Exploitation by AMISOM Soldiers

Human Rights Watch documented cases that suggest a relatively organized system of sexual exploitation taking place on both the AMISOM base camp and the base of the Burundian contingent in Mogadishu. These are areas in which AMISOM forces are responsible for security. Given entrenched poverty, limited humanitarian assistance, and

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[32] Human Rights Watch interview with Ayanna S., Mogadishu, February 7, 2014.
[33] Human Rights Watch interview with Aziza D., Mogadishu, September 23, 2013.
[34] Ibid.
[35] Ibid.

dire living conditions, especially for displaced communities, some Somali women and girls are compelled to engage in sex with soldiers in exchange for money, food, and medicine. The AUC Code of Conduct, with which AMISOM troop-contributing countries are required to comply, prohibits sexual exploitation and abuse (see AU, AMISOM Response to Sexual Exploitation and Abuse Allegations).[36] Similarly, the MoUs signed by the AU and the UPDF and BNDF describe sexual exploitation and abuse as serious misconduct.[37]

Women and girls told Human Rights Watch they traded sex for money and goods as a last resort, often as their families' sole breadwinner.[38] The AMISOM troops have a significantly higher income and access to goods than many Somalis living in the vicinity of the camps, particularly displaced persons. Individual soldiers deployed within AMISOM are supposed to receive over $1,000 a month in allowances, with approximately $200 being deducted by troop-contributing countries.[39]

Given the extreme vulnerability of these women and the differential power relationship between them and the soldiers, this conduct is clearly "sexually exploitative" as defined by the UN secretary-general's 2003 *Bulletin on special measures for protection from sexual exploitation and sexual abuse.*[40]

Human Rights Watch interviewed 14 Somali women and girls, all of them displaced, who said AMISOM soldiers paid them for sex since 2013 on the Burundian contingent's base or the AMISOM base camp in Mogadishu.[41]

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[36] The African Union Commission (AUC) Reviewed Code of Conduct specifies that soldiers should not "indulge in acts of sexual, physical or psychological abuse or exploitation of the local population" and that "any exchange of money, employment, goods or services" for sex must be punished.

[37] Memorandum of Understanding between the African Union and the Government of The Republic of Uganda Contributing Resources To The African Union Mission In Somalia, on file with Human Rights Watch, Annex A, para. 33; Protocole d'Accord entre l'Union Africaine et le Gouvernement de la République du Burundi Pays Contributeur en Ressources pour la Mission de l'Union Africaine en Somalie, Annexe A, para. 22.

[38] Human Rights Watch received credible second-hand reports of non-displaced women being involved in sexual exploitation on the bases, notably women who spent prolonged periods of time on the base exchanging sex for money with the soldiers. However, researchers did not interview any such women.

[39] Barbara Among, "AMISOM relief as EU releases $1b for security," *The East African,* July 19,2014, (accessed July 23, 2014), http://www.theeastafrican.co.ke/news/Amisom-relief-as-EU-releases--1b-for-security/-/2558/2390216/-/bt2boq/-/index.html.

[40] UN secretary-general's *Bulletin special measures for protection from sexual exploitation and sexual abuse*, ST/SGB/2003/13, 9 October 2003. http://cdu.unlb.org/Portals/0/Documents/KeyDoc4.pdf (accessed August 15, 2014). The Bulletin defines sexual exploitation as "any actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another."

[41] Human Rights Watch has not investigated whether such abuses are also happening on other AMISOM bases and outposts.

As in the cases of rape, most of the cases documented by Human Rights Watch involved a Somali intermediary, often claiming to be an interpreter working on the base, recruiting women and girls directly from IDP camps or when they came to the base seeking medicine or other services.[42] Most of the cases documented took place on the Burundian contingent's base.[43] Several of the women and girls working on the AMISOM base camp reported being lured in by female acquaintances, some of who were already having paid sex with the soldiers, who would then put them in touch with a male Somali intermediary. In many cases documented by Human Rights Watch, the Somali intermediary or interpreter would then pair the woman or girl with a specific AMISOM soldier with whom she would have sex for money, frequently over a period of weeks or months. Human Rights Watch also interviewed women and girls who regularly, sometimes on a daily basis, came to the Burundian base and had paid sex with several soldiers.[44]

Kassa. D., 19, had sex with Ugandan soldiers because she was unable to pay for food.[45] In May 2013, her friend took her to the base and introduced her to a Somali interpreter. She explained her predicament: "I was worried, I wanted to run but I knew that the same thing that brought me here would get me through this—my hunger. I had made a choice and I couldn't turn back now." After the sexual intercourse, the interpreter paid her $10 and took her to the gate. When Human Rights Watch interviewed Kassa D., she had been having paid sex with the same soldier for six months.

In addition, witnesses including a former AMISOM civilian contractor, said that some women having paid sex lived inside the AMISOM base camp.[46]

Amina G., 18, has been the family breadwinner since her father was killed in an explosion in 2010 and her mother fell seriously ill.[47] She is the sole provider for two younger sisters.

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[42] In 2012 the UN collected information on sexual exploitation and abuse and found that most of the women involved in sexual exploitation were being brought into the Ugandan and Burundian bases with the help of interpreters; Human Rights Watch interview with UN staff, Nairobi, March 10, 2014.

[43] A Somali woman working at the outpatient department on the Halane base told Human Rights Watch that prior to mid-2012, many women and girls were also being picked up at the out-patient department in Halane but this had stopped after the system was reportedly uncovered. Human Rights Watch was not able to confirm whether the UPDF had in fact addressed these issues at the OPD in 2012. Human Rights Watch interview with Halima H., Mogadishu, June 26, 2013.

[44] Human Rights Watch interview with Amina G.,Mogadishu, September 18, 2013, Human Rights Watch interview with Fatima W., Mogadishu, August 25, 2013.

[45] Human Rights Watch interview with Kassa. D., Mogadishu, November 10, 2013.

[46] Human Rights Watch interview with cleaner, Mogadishu, March 11, 2014; Human Rights Watch interview with Somali civilian contractor, Mogadishu, February 26, 2014.

She told Human Rights Watch how she was sexually exploited on the Burundian contingent's base in early 2013:

> A neighbor put me in touch with a Somali man working at the Burundian base. He agreed to meet me after asking me what I looked like and if I was a virgin. He did not fully describe what I would have to do until I came to the base. He said that I would have to befriend powerful foreign men who could help me get money, food and medicine.
>
> I would enter the base through a separate side entrance at 6 a.m. that was used mainly by me and the three girls that I worked with. The youngest girl was 16. The interpreter paid us between $3 and $5 a day and would coordinate the visits by taking us between the soldiers' rooms. At the end of the day, the intermediary would escort us out.
>
> All the men were foreigners—Burundi military officers. They all wore similar green camouflaged uniforms and had stripes on their epaulets. Some men had three stripes, others had four, but they all looked like powerful men.

The increasing number of shops on the AMISOM bases in Mogadishu also provided greater interaction between AMISOM personnel, soldiers, and Somali women. Several people living and working on the airport compound said that some of the women having paid sex with the Ugandan soldiers were based in the shops in the Marine market, located in Afisyoni at the northern part of the airport runway, and other shops in the AMISOM base camp, between the AMISOM officers' mess [canteen] and the hospital area during the day.[48] One foreign diplomatic advisor said: "The women are hiding in the back of the small shops. The soldiers go there with the excuse to buy SIM cards. Everyone is aware of this."[49] The women are sometimes brought to the soldiers' prefabs [prefabricated residences] that are nearby.

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[47] Human Rights Watch interview with Amina G., September 18, 2013.

[48] Human Rights Watch interview with journalist, Kampala, April, 3, 2014; Human Rights Watch interview with former diplomatic advisor, Nairobi, March 12, 2014.

[49] Human Rights Watch interview with former diplomatic advisor, Nairobi, March 12, 2014.

In December 2012, following media reports of shops on the AMISOM base camp being used as a front for exploitative sex, the then-AMISOM force commander, Ugandan Gen. Andrew Gutti, ordered the closure of shops near the soldiers' quarters, banned Somali women from the base camp, and ordered the shops to be moved to the Marine market area, away from the AMISOM base camp.[50] According to a Somali civilian contractor working on the base camp at the time, most shop owners refused to relocate. In addition, as described above, taking such measures may have merely relocated the problem to a new area.

The nexus between shops and sexual exploitation on the bases was also highlighted by a woman working on the Burundian contingent's base. Ifrah D. told Human Rights Watch:

> I ran a small shop outside the Burundian contingent base. In August 2013, a Somali interpreter introduced me to a Burundian soldier. He helped me to set up a little shop inside the base selling mobile phones. I knew what I was agreeing to. The soldier is a man of power, not like the other soldiers. My shop has become much more profitable. I visit [have sex with] the man occasionally. I consent to his requests.[51]

Coercion and Threats

Women and girls also described how violence could become part of these relationships. One day, the soldier with whom Kassa D. was having paid sex got angry because she did not want to perform fellatio as she had a sore tooth. "I tried to explain to him using hand gestures, but he became infuriated and forced me to perform the act anyway," she said. "I felt so scared and thought he would shoot me with his pistol."[52]

Anisa S., 19, said both the Burundian soldiers with whom she had paid sex had been violent to her, including hitting and slapping her on several occasions. [53] She was recruited while seeking water on the base and had never had sex before. She agreed to the arrangement because she was the sole provider for her elderly and sick grandmother and she was in debt.

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[50] Human Rights Watch email correspondence with former civilian contractor, June 17, 2014; Human Rights Watch interview with international observer, Nairobi, March 4, 2014.

[51] Human Rights Watch interview with Ifrah. D, Mogadishu, September 26, 2013.

[52] Human Rights Watch interview with Kassa. D., November 10, 2013.

[53] Human Rights Watch interview with Anisa S., September 18, 2003.

Women's Access to the AMISOM Bases

> While in line [for medicine at the Burundian X-Control base], an interpreter approached me and said he wanted to introduce me to a senior Burundian military officer who would be able to help me. He gave me his number, told me to come back wearing a burqa the next time and said he would meet me at the gate of the side entrance. After thinking it over, I went back to the base. He took me to an area of the base I had not seen before, with a lot of tents and large military vehicles. He introduced me to a Burundian man of about 40 or 50, then left me alone in a room which I think was his room. My baby was given toys to play with. The man undressed himself and we had sex; the baby cried twice and the soldier seemed annoyed by it. When it was finished, I received my medication, $10 and some food. On later visits I saw six other Somali women there—about six regulars between 15 to 24-years-old.
> —Deka R., Mogadishu, September 2013

As documented by Human Rights Watch and the SEMG, the sexual exploitation by Ugandan soldiers at the AMISOM base camp and by Burundian soldiers at the Burundian contingent's camp appears routine and organized. This heightens the likelihood that others living and working on these bases, including international and AU staff, are aware of the problem.[54] Somali women having paid sex with soldiers have been able to obtain AMISOM badges allowing them easy access in and out of what should be highly secure military zones.[55] Even those without badges are able to access the bases. Some Somali women having paid sex with soldiers have also resided in housing on the base camp.[56]

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[54] While largely based on anecdotal evidence, one international observer described seeing an AMISOM truck driving a group of Somali women into the MIA one evening in late 2012; other international observers expressed concern about seeing AMISOM officers regularly walking with Somali women on the AMISOM base camp beach, something that would be noticeable in Somalia's conservative society. They also expressed concern about seeing Somali women walking around with AMISOM contractor badges, and on occasion seeing Somali women in AMISOM housing. Human Rights Watch interview with UN staff, Nairobi, May 21, 2014; Human Rights Watch interview with UN staff, Nairobi, June 4, 2014; Human Rights Watch interview with international observer, Nairobi, March 4, 2014.

[55] Human Rights Watch interview with UN staff, Nairobi, June 4, 2014.

[56] Human Rights Watch interview with cleaner, March 11, 2014.

Once recruited, these women and girls who normally did not cover their faces would frequently wear burqas on their way to the bases to conceal their identity. The Somali intermediaries then facilitated access to the bases, almost exclusively via side entrances. In the case of the AMISOM base camp, they entered via the side entrance gate near the outpatient department.[57] Most of the women and girls told Human Rights Watch that they accessed the base via official, guarded side entrances in the early morning and were often searched by AMISOM female officers at the entry points. Fatima W. said she was not checked upon entering the Burundian base camp because of her frequent visits: "We're known by the Burundians so we're not checked."[58]

One woman said she was picked up directly at the gate by a Ugandan soldier with whom she regularly had paid sex who was in an AMISOM vehicle.[59] One woman, Farxiyo A., told Human Rights Watch that she was given an ID card by the Ugandan soldier she was having paid sex with to facilitate her access through the main airport entrance.[60]

According to a Somali civilian official who worked at the Halane base in 2012 and 2013, and was well acquainted with other Somalis on the base, about eight Somali women who had paid sex with senior officers lived inside the base in prefabricated residential units.[61] The women had official AMISOM contractor badges and ostensibly worked as overnight interpreters at the hospital and daytime interpreters at the outpatient department hospital.

"There is a lot of corruption in AMISOM that allows the women to get these badges," the Somali official told Human Rights Watch. "Everyone knows that exploitation is happening but no one wants to address it unless the information becomes public—it's seen as a way of pleasure for soldiers."[62]

According to a UN official, the UN and diplomats based in the airport compound have on at least one occasion raised concerns with AMISOM officials about the security implications

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[57] Human Rights Watch interview with journalist, Kampala, April 3, 2014.
[58] Human Rights Watch interview with Fatima W., August 25, 2013.
[59] Human Rights Watch interview with Mariam S., Mogadishu, August 25, 2013.
[60] Human Rights Watch interview with Farxiyo A., Mogadishu, October 9, 2013.
[61] Human Rights Watch interview with Somali civilian contractor, Mogadishu, February 26, 2014.
[62] Ibid.

of Somali women carrying AMISOM identity cards around the airport compound.[63] The official did not know what, if anything, had changed as a result.

Human Rights Watch's research suggests that access to commanders was primarily facilitated by interpreters. As a Somali working on the airport compound said: "The top commanders rely on the translators and the ordinary soldiers rely on their own ways."[64]

The women said that once inside, most went straight to the soldiers' quarters. While the women were reluctant to give the exact locations of where they were taken, some described being taken to tents and others said they were taken to more permanent structures.

While the payment varied, the women having regular paid sex with one soldier said they were typically paid around $5 a day but pay ranged from between $3 to $20 a day. Occasionally the soldiers would supplement money with apples, milk, and food cooked on the base. Other times, the women would get medicine or other supplies from the soldiers or interpreters.

In July 2013, a Somali interpreter at the Ugandan base recruited Idil D., 18, after meeting her near the IDP camp where she lives in Suqhoola in the Huriwa district of northern Mogadishu.[65] He lured her by saying that if she befriended a Ugandan soldier and he fell in love with her, he would take her to Uganda. Idil said: "I agreed, because I really wanted to leave Somalia."[66]

That same day, the interpreter took her to a room on the AMISOM base camp to meet the Ugandan soldier. "At first I was scared of the soldier. He was old enough to be my father. I was nervous, but I really wanted to be sent to Uganda."[67] After having sexual intercourse, he paid her $20. She had paid sex with the same soldier at the base three times a week for a month. She met five other women at the base who also had similar relationships. In August, the soldier left Somalia without her and never returned.

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[63] Human Rights Watch interview with UN staff, Nairobi, June 4, 2014.
[64] Human Rights Watch interview with Somali civilian contractor, March 4, 2014.
[65] Human Rights Watch interview with Idil D., Mogadishu, September 18, 2013.
[66] Ibid.
[67] Ibid.

Sexually Transmitted Infections

Women and service providers who spoke to Human Rights Watch said that soldiers paying for sex on the two bases did not consistently wear condoms, placing women at serious risk of HIV and other sexually transmitted infections (STIs). Several women said they had contracted STIs, primarily gonorrhea, after having sex with soldiers at the bases. Others did not know their health status as they had not been tested. Idil D. said she constantly worried because the soldier she had sex with for money never used a condom. She has not been tested: "I do not want to know if I have AIDS. If I have it, I will go crazy."[68]

Anisa S., a 19-year-old living in the X-Control IDP camp, has had various health problems including gonorrhea since starting to have sex with soldiers at the Burundian contingent's base in April 2013.[69] Ayan Y. also discovered she had gonorrhea after having sex with a Burundian soldier without a condom for three months; when she told the interpreter, he gave her $5 to go and buy pills.[70]

Fear of Reporting

With two exceptions, rape survivors interviewed by Human Rights Watch did not file complaints with authorities because they feared stigma, reprisals from family, police, and the Islamist insurgent group Al-Shabaab. Others did not believe authorities would be able or willing to take any effective action. They said they felt powerless.

Farha A., 18, was raped in late December 2013 at the Burundian contingent's base after going to the AMISOM base to beg.[71] She said she did not report the rape to anyone because she feared reprisals from the soldier.

Even in cases where Somali police suspect misconduct by AMISOM soldiers and want to investigate, they have no jurisdiction over the troops (see AU, AMISOM Response to Sexual Exploitation and Abuse Allegations).

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[68] Human Rights Watch interview with Idil D., September 18, 2013.

[69] Human Rights Watch interview with Anisa S., September 18, 2003.

[70] Human Rights Watch interview with Ayan Y., November 10, 2013.

[71] Human Rights Watch interview with Farha A.,Mogadishu, February 7, 2014.

Iftin D. said she was 16 when she was sexually assaulted after going to the Burundian base seeking food.[72] As she was being attacked by four Burundian soldiers she started screaming loudly causing two Somali policemen to come to the gate.

Shots were fired in the air and the soldiers let Iftin D. go. Iftin D. said, "The police asked me what I was doing inside. I told them that [the soldiers] had promised me food and then attacked me. The police didn't say anything. They just helped me home."[73]

Both Somali and international officials said that their lack of physical access to certain areas of the AMISOM base camp controlled by the UPDF hampered their ability to monitor abuses in those areas and investigate incidents.[74] A high-level police officer who worked for several years on the airport compound said that the Somali authorities and independent monitors should be given access to these areas.[75]

In the high-profile case of a woman who did exceptionally report her rape by AMISOM soldiers, the investigation was deeply flawed and the woman and the organization providing her with services faced harassment (see AU, AMISOM Response to Sexual Exploitation and Abuse Allegations).

Some women did not report their experiences because they felt that Somali authorities might do more harm than good. The women feared that the authorities would not do anything but stigmatize them or bring them other problems, including criminal prosecution. Under Somalia's 1962 penal code, sex work carries a prison sentence of between two months and two years, with an even harsher sentence for sex workers who are married.[76] "I am ashamed to go to the police and there is no proof," said Idil D. "It's my word against theirs. The police will only tell more people and arrest no one. There's no point."[77]

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[72] Human Rights Watch interview with Fatima W., August 25, 2013.

[73] Ibid.

[74] Human Rights Watch interview with senior police officer, Nairobi, March 5, 2014; Human Rights Watch interview with former diplomatic advisor, Nairobi, April, 12, 2014; Human Rights Watch interview with UN staff, Nairobi, May 21, 2014.

[75] Human Rights Watch interview with senior police officer, Nairobi, March 5, 2014.

[76] Somalia Penal Code, Legislative Decree No. 5 of December 16, 1962, art. 405 states that (1) "whoever practices prostitution in any form shall be punished with imprisonment from two months to two years" and (2) "Where the act is committed by a married person, the punishment shall be increased."

[77] Human Rights Watch interview with Idil D., September 18, 2013.

Mariam K., 26, who worked on the AMISOM base camp said: "I fear the police would arrest me if I told them." She was also fearful about the ramifications of the information about her exploitation becoming public. "If my parents or my brothers back home found out what I was doing they may kill me, because Somali people traditionally believe if a girl sells her body, she damages the dignity of her family." [78]

Many of the women and girls told Human Rights Watch they also feared reprisals by Al-Shabaab. A female cleaner working for years in the MIA, who knew many of the women selling sex on the base, summarized the women's concerns: "They provide free sex to get food and so on, but what I can tell you is that they are very desperate and they fear Al-Shabaab will kill them. Even their families and relatives may kill them, because they believe they destroyed their honor."[79]

Idil D., who had been lured by promises of living in Uganda, faced threats as a result of her previous work on the base. She told Human Rights Watch:

> After I confided to a girlfriend, people in my community found out that I was visiting the Ugandan base. I received harassing phone calls from people who said they were connected to Al-Shabaab, and they threatened to kill me for associating with AMISOM. My father kicked me out the house. I felt betrayed and depressed after learning the soldier had left the country without me. I did all these things for my future but now I am ruined and I will never be the same. I can't get married now, everyone knows what I did. No one wants to be around me. My reputation is ruined forever. [80]

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[78] Human Rights Watch interview with Mariam K., Mogadishu, October 9, 2013.

[79] Human Rights Watch interview with cleaner, Mogadishu, March 11, 2014.

[80] Human Rights Watch interview with Idil D., September 18, 2013. According to a community leader and a journalist in Uganda, several women involved with Ugandan soldiers ended up in Uganda, either with the support of the soldiers themselves or on their own accord. Human Rights Watch interviews with Somali Community leader, Kampala, April 14, 2014; Human Rights Watch interview with journalist, Kampala, April 3, 2014.

III. Jurisdiction over Abuses by AMISOM Forces

States are obligated to ensure that serious violations of human rights committed within their territory are impartially and credibly investigated and appropriately prosecuted. Under the status of mission agreement between the Somali government and the AU, Somalia relinquishes jurisdiction over AMISOM troops who commit crimes on Somali territory, including sexual abuse and exploitation. Primary responsibility falls on troop-contributing countries to hold members of their forces to account for misconduct, including through criminal prosecutions, as specified by status of mission agreements between Somalia and the AU, and individual MoUs between troop-contributing countries and the AU.

Under the Somalia-AU status of mission agreement, all members of AMISOM, including locally recruited Somali personnel, are therefore legally immune from prosecution in the local Somali justice system for all acts performed in their official capacity.[81] Troop-contributing countries have exclusive jurisdiction in prosecuting any criminal offenses committed by their troops in Somalia.[82] AMISOM and troop-contributing countries effectively take primary responsibility for ensuring that as their personnel carry out their mission, they respect the rights of the civilian population.

Soldiers of troop-contributing countries have no individual contractual link with the AU and remain administratively attached to their respective national militaries. Legal obligations of military personnel in AU peace support operations are governed by MoUs agreed to between the AU and each troop-contributing state. These MoUs hold troop-

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[81] Under article 54, "All members of AMISOM, including locally recruited personnel, shall be immune from legal process in respect of words spoken or written and all acts performed by them in their official capacity. Such immunity shall continue even after they cease to be members of or employed by AMISOM and after the expiration of the other provisions of the Agreement." Status of Mission Agreement (SOMA) Between the Transitional Federal Government of the Somali Republic and The African Union on The African Union Mission in Somalia (AMISOM), March 6, 2007, http://storage.globalcitizen.net/data/topic/knowledge/uploads/20100505103429290.pdf.

[82] Ibid., art. 55: "Should the [Somali] government consider that any member of AMISOM has committed a criminal offence, it shall promptly inform the HoM [head of mission] and present to him any evidence available to it. Subject to the provisions of paragraph 54: a. if the accused person is a member of the civilian component or a civilian member of the military component, the HoM shall conduct any necessary supplementary inquiry and then agree with the government whether or not criminal proceedings shall be instituted failing such agreement the question shall be resolved as provided in paragraph 59 of the present agreement; b. Military members of the military component shall be subject to the exclusive jurisdiction of their respecting participating states in respect of any criminal offence which may be committed by them in Somalia."

contributing countries responsible for the training and discipline of their forces and for holding their forces to account for misconduct, including through criminal prosecutions.[83]

According to the AMISOM MoUs with troop-contributing countries, governments shall ensure that all members of their contingents comply with the AUC Code of Conduct and discipline.[84] As described below, the AUC Code of Conduct specifically prohibits sexual exploitation and abuse, although it does not define such conduct.

The AMISOM troop-contributing countries' MoUs are not identical when defining sexual exploitation and abuse. For example, the Burundian MoU seen by Human Rights Watch specifically defines sexual abuse and exploitation whereas the Kenyan and Ugandan MoUs do not.[85] However, all explicitly state that sexual exploitation and abuse constitute serious misconduct.[86] Where investigations conclude that there are well-founded allegations of misconduct by any member of their national contingent, the respective government should forward the case to the appropriate authorities in the troop-contributing country for action.[87]

Significantly, the MoUs also empower the AU to initiate investigations into allegations of abuse and exploitation where the troop-contributing country is unable or unwilling to do so itself.[88]

AMISOM's responsibilities to prevent and to protect women and girls from sexual exploitation and abuse is affirmed in UN Security Council Resolution 2093, which requests AMISOM "to take adequate measures to prevent sexual violence, and sexual exploitation

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[83] The MoUs relating to AMISOM reviewed by Human Rights Watch have some positive similarities with the revised Standard Memorandum of Understanding between Troop Contributing Countries and the UN's Department of Peacekeeping Operations, which was amended in 2007 following the recommendations of the 2005 review on sexual abuse and exploitation by peacekeepers.

[84] Memorandum of Understanding between the African Union and the Government of the Republic of Uganda Contributing Resources To The African Union Mission In Somalia (Uganda MoU), on file with Human Rights Watch, art. 7.1; Memorandum of Understanding between the African Union and the Government of The Republic of Kenya Contributing Resources To The African Union Mission In Somalia (Kenya MoU), art. 7.1.

[85] Memorandum of Understanding between the African Union and the Government of The Republic of Burundi Contributing Resources To The African Union Mission In Somalia (Burundi MoU), on file with Human Rights Watch, Annex A, para. 16, "Sexual Exploitation: means any actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another, " and para 47, "sexual abuse: means the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions."

[86] Kenya MoU, Annex A, para. 34; Uganda MoU, Annex A, para. 33.

[87] Kenya MoU, art. 11,1; Uganda MoU, art. 11.1.

[88] Kenya MoU, art. 8.7; Uganda MoU, art. 8.6.

and abuse, by applying policies consistent with the United Nations zero tolerance policy on sexual exploitation and abuse in the context of peacekeeping."[89]

UN Security Council Resolution 2124 also requests the AU "to advance efforts to implement a system to address allegations of misconduct."[90] The resolution also notes that expanded logistical support for AMISOM should be consistent with the requirements of the secretary-general's Human Rights Due Diligence Policy.[91] Under this policy, support by all UN entities to non-UN security forces cannot be provided where there are substantial grounds to believe the recipient may commit grave violations of international humanitarian, human rights, or refugee law and where the relevant authorities fail to take the necessary corrective or mitigating measures to prevent such violations.[92] Under the policy, should the UN receive reliable information that a recipient is committing such violations, the UN entity providing this support must intercede with the relevant authorities with a view to bringing those violations to an end. If the situation persists despite the intercession, the UN is then obliged to suspend or withdraw support as a last resort.[93]

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[89] United Nations Security Council, Resolution 2093 (2013), S/RES/2093 (2013), http://unscr.com/en/resolutions/2093 (accessed June 18, 2014).

[90] United Nations Security Council, Resolution 2124 (2013), S/RES/2124 (2013), http://unscr.com/en/resolutions/2124 (accessed June 18, 2014).

[91] The resolution authorizes AU member states to maintain the deployment of AMISOM until October 31, 2014.

[92] The policy defines "support" to mean any of the following activities: a. training, mentoring, advisory services, capacity- and institution-building and other forms of technical cooperation for the purpose of enhancing the operational capabilities of non-UN security forces. "Non-UN security forces" include: c. peacekeeping forces of regional international organizations. "Grave violations" means: a. in the case of a unit: ii. a pattern of repeated violations of international humanitarian, human rights or refugee law committed by a significant number of members of the unit; b. in the case of civilian or military authorities that are directly responsible for the management, administration or command of non-UN security forces: i. commission of grave violations by one or more units under their command; ii. combined with a failure to take effective measures to investigate and prosecute the violators. United Nations, Human Rights Due Diligence Policy on UN support to non-UN security forces, United Nations, March 5, 2013, A/67/775–S/2013/110, http://www.un.org/ga/search/view_doc.asp?symbol=S/2013/110&referer=http://www.un.org/en/sc/documents/letters/2013.shtml&Lang=E.

[93] Ibid. para. 27.

IV. Troop-Contributing Countries and Sexual Exploitation and Abuse

Troop-contributing countries to AMISOM are responsible for holding their forces to account for and preventing sexual exploitation and abuse. There are a range of actions and procedures that troop-contributing countries—particularly Uganda and Burundi—have taken to tackle abuses and misconduct by their forces. However, troop-contributing countries have not made sexual exploitation and abuse a priority or proactively deployed resources at their disposal to tackle the problem.

Ensuring Accountability for Sexual Exploitation and Abuse

Tackling impunity and ensuring accountability for acts of sexual exploitation and abuse is key to addressing the problem. Thorough and prompt in-country investigations aimed at gathering sufficient and proper evidence would improve the likelihood of pursuing prosecutions of perpetrators.

Holding on-site or in-country courts martial can also facilitate evidence gathering, help ensure that witnesses are available to testify, and increase a victim's belief that justice has been served. This means ensuring that survivors and their relatives not only participate as witnesses during the investigation and at trial but are kept informed throughout the judicial process.

Regular outreach within affected communities to update them about any investigations and outcomes is also important. Given both the immediate medical impact on survivors and the longer-term psychological, medical, social, and economic consequences they face, troop-contributing countries should also ensure that they assist and compensate via suitable third parties, such as AMISOM or humanitarian agencies, victims of sexual abuse and exploitation.

Ensuring that information on complaints, investigations, prosecutions, and their outcomes is shared by troop-contributing countries with the AMISOM headquarters and the African Union Commission, and made public as appropriate, can also help improve transparency, accountability, and improve oversight by AMISOM.

Investigations and Prosecutions

Troop-contributing countries have deployed, to a varying degree, legal officers, military investigators, and intelligence officers to Somalia in order to investigate misconduct by their troops.[94] However, current and former military justice officers and other military officials previously deployed to Somalia told Human Rights Watch that the legal and investigation capacity is insufficient, and this has negatively affected investigations and prosecutions.[95] They said inadequate investigations and poorly assembled criminal files are among the main reasons why prosecutions often end up in acquittal.[96] Legal advisors to troop-contributing countries also raised concerns that because of the limited number of legal officers deployed to address the problem in each contingent, the risks of incidents not coming to their attention or of cover-ups by commanders remained high.[97]

Human Rights Watch identified only two investigations into allegations of sexual exploitation and abuse since 2012 (see Criminal Investigations into Rape of Girl in Baidoa below).

The legal officer with the Burundian contingent in Mogadishu in early 2012 took part in a preliminary investigation into an allegation of rape of a 16-year-old girl by Burundian soldiers after the girl's relatives made an oral complaint to the contingent headquarters.[98] The legal officer told Human Rights Watch that his office interviewed the girl and a few witnesses at the location of the incident who said that the family was fabricating the complaints because the girl's mother wanted access to medical care. The investigators never compiled a formal file on the case and closed the investigation before receiving the results of the medical examination.[99]

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[94] Human Rights Watch interviews with military justice officers, including lawyers and other military officials in Uganda and Burundi, April 2-April 10, 2014.

[95] In the case of the Burundian and Kenyan contingents, as of this writing, a legal officer was only deployed at the level of the contingent command, whereas the Uganda military has also deployed legal advisors at the contingent and battlegroup level. The Kenyan and Burundian armed forces lack military lawyers within their forces more generally. Human Rights Watch interviews with military justice officer, Kampala, April 5, 2014. and defense lawyer, Kampala, April 4, 2014; Human Rights Watch interviews with lawyer formerly with the Burundian contingent, Bujumbura, April 7, 2014, and lawyer formerly with the Kenyan contingent, Nairobi, May 29, 2014.

[96] Human Rights Watch interview with defense lawyer, Kampala, April 4, 2014; Human Rights Watch interview with military justice officer, Kampala, April 5, 2014; Human Rights Watch interview with lawyer formerly with the Kenyan contingent, Nairobi, May 29, 2014.

[97] Human Rights Watch interview with lawyer formerly with the Burundian contingent, Bujumbura, April 9, 2014; Human Rights Watch interview with Captain Gahungu, substitut de l'auditeur militaire (deputy military prosecutor), Bujumbura, April 9, 2014.

[98] Human Rights Watch interview with Captain Gahungu,Bujumbura, April 9, 2014.

[99] Ibid.

Military justice officers identified a range of factors impeding investigations into sexual exploitation and abuse issues, including the lack of both complaints and evidence. A Burundian military prosecutor summed up the obstacles as follows: "I don't know of any cases of prostitution or rape. But I don't exclude that there could be cover-up on these issues by commanders. These types of offense are rarely known. They are also difficult to investigate."[100] The officers also appear to lack the means to carry out thorough investigations, and possibly also the legal knowledge to investigate sexual exploitation and abuse. Several legal officers said they heard rumors about sexual exploitation and abuse during their tenure, but as one stated, he "never received official complaints or found soldiers or officers in '*flagrante delicto*' [caught in the act]."[101]

Such expectations are unreasonable given both the reluctance of survivors to file complaints as well as the unlikelihood of catching soldiers or officers in the act. This also highlights a lack of understanding about the conduct of investigations into sexual exploitation and abuse as legal officers and military prosecutors need to proactively seek evidence, including by interviewing witnesses and gathering forensic evidence. Furthermore, when asked where women and girls subjected to such abuses could report a complaint, legal officers and senior military officials responded that they could just "come to the bases"; while some survivors may choose to do so, it is unlikely given the military environment, as well as the fear of reprisals from the perpetrators, that women would choose the bases as their first option.[102]

Military Justice

The majority of cases that appear before the Ugandan and Burundian military courts have focused on military offenses not involving civilians, with a few exceptions of incidents of killings of civilians.[103]

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[100] Human Rights Watch interview with Col. Jean Bosco Niyungeko, Auditeur General (military prosecutor), Bujumbura, April 8, 2014.

[101] Human Rights Watch interview with Captain Gahungu, Bujumbura, April 9, 2014.

[102] Human Rights Watch interviews with military court official, Kampala, April 5, 2014, and Maj. Gen. Fabien Nzisabira, BNDF Deputy Chief of Staff, Bujumbura, April 4, 2014.

[103] Human Rights Watch interview with Registrar of the General Court Martial, Kampala, April 2, 2014. The Registrar told Human Rights Watch that 19 files had been transferred to the General Court Martial since October 2014. which included offenses of: failure to protect war materials, false accusations, conduct prejudicial to good order and discipline, careless shooting, abuse and violence to inferiors, failure to brief, and cowardice in action.

The Burundian military has not held any courts martial in Somalia.[104] The Ugandan military, however, held trials by a resident Divisional Court Martial (DCM) in Mogadishu between January and October 2013. [105] Prior to this, the court had been travelling to Mogadishu on occasion as required.[106] During this period the court concluded 30 cases, which was an important step forward toward greater accountability, though none of the cases concluded related to sexual abuse.[107] In October 2013, the on-site DCM was disbanded, and all pending files were brought back to the General Court Martial in the Ugandan capital, Kampala.

Human Rights Watch was not able to determine why the court was disbanded. Some sources mentioned the cost of maintaining the court in Mogadishu, while others cited possible concerns that the Ugandan military would be seen in a negative light if it was the only contingent holding on-site courts martial.[108] One court official speculated: "I think they moved it back [to Kampala] as they were worried that having a court in Mogadishu would highlight the criminality within the UPDF, publicize it."[109] Certain court officials acknowledged that having the hearings in Kampala was likely to impede justice: "The DCM [in Mogadishu] was a good move. The biggest issue in trying the cases [in Kampala] will be getting the witnesses. If the witnesses don't appear in court, the cases will be thrown out."[110]

Overall, military court judges, prosecutors, and lawyers in troop-contributing countries interviewed by Human Rights Watch acknowledged that having courts martial in

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[104] BNDF soldiers facing criminal or disciplinary charges are repatriated to face trial at home.

[105] The UPDF have unit disciplinary courts (UDCs) in Somalia to address military discipline offenses. The Uganda Peoples' Defence Forces (UPDF) Act of 2005 provides for establishing a Unit Disciplinary Committee (UDC) for each army unit. UDCs enjoy jurisdiction to try all offenses covered by the act, excluding capital offenses. Superior to UDCs are Divisional Courts Martial, which have jurisdiction to try offenses that carry the death penalty, and a General Court Martial, which enjoys full original and appellate jurisdiction. For more information on the make-up of the military court system in Uganda, see Human Rights Watch, *Righting Military Injustice: Addressing Uganda's Unlawful Prosecution of Civilians in Military Courts*, July 27, 2011, http://www.hrw.org/reports/2011/07/27/righting-military-injustice; Human Rights Watch interview with military justice officer, Kampala, April 5, 2014.

[106] Human Rights Watch interview with Registrar of the General Court Martial, Kampala, April 2, 2014.

[107] Human Rights Watch interview with military court official, Kampala, April 5, 2014. The one file that involves a civilian victim is a case of rape of a minor, discussed below. The soldier arrested in this case only appeared before the Divisional Court Martial once before the court was sent back to Kampala.

[108] Human Rights Watch interview with military court official, Kampala, April 5, 2014; Human Rights Watch interview with defense lawyer, Kampala, April 4, 2014.

[109] Human Rights Watch interview with military court official, Kampala, April 5, 2014.

[110] Ibid.

Mogadishu would be a positive step.[111] One former legal advisor to the BNDF said, "In the current set-up, the lack of evidence evidently benefits the accused."[112]

Officials deployed to Somalia prior to 2012 told Human Rights Watch that they were not aware of any allegations of sexual exploitation and abuse that had resulted in a board of inquiry or a criminal prosecution.

Criminal Investigations into Rape of Girl in Baidoa

Human Rights Watch research identified only one case of sexual abuse that went before a national military court since 2012.[113]

According to Ugandan military prosecutors, judges, and lawyers involved in the case, the Special Investigation Branch (SIB) of the military intelligence conducted an investigation into allegations of rape of a girl by a Ugandan soldier, which reportedly included statements from the survivor and her parents. A prosecution file was opened in July 2013.[114] The Ugandan military arrested and detained a Ugandan soldier, a private from Battlegroup 10 in the "Bikin" detachment (Bikin is a hotel on the outskirts of Baidoa). The soldier appeared before the Divisional Court Martial in Mogadishu and a hearing was set for October 2013, but then the court was called back to Uganda and the case file transferred to Kampala.[115]

Divisional Court Martial officials told Human Rights Watch that the parents of the survivor had initially been reluctant to support the prosecution, as they were hoping to get compensation.

At the time of writing, the private is still in detention in Uganda, but his case has not been heard.

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[111] Human Rights Watch interview with Colonel Jean Bosco Niyungeko, Auditeur General (military prosecutor), Bujumbura, April 8, 2014; Human Rights Watch interview with lawyer formerly with the Burundian contingent, Bujumbura, April 9, 2014.

[112] Human Rights Watch interview with lawyer formerly with the Burundian contingent, April 9, 2014.

[113] Human Rights Watch interview with military court official, Kampala, April 5, 2014; Human Rights Watch interview with Registrar of the General Court Martial, Kampala, April 2, 2014; with defense lawyer, Kampala, April 4, 2014.

[114] Human Rights Watch interview with Registrar of the General Court Martial, Kampala, April 2, 2014.

[115] Human Rights Watch interview with military court official, Kampala, April 5, 2014; Human Rights Watch interview with Registrar of the General Court Martial, Kampala, April 2, 2014; Human Rights Watch interview with defense lawyer, Kampala, April 4, 2014.

One official who had been part of the Divisional Court Martial in Somalia was skeptical about the outcome of this case. "I think this case will not succeed," he said. "If the witnesses wouldn't come to Mogadishu, how would they agree to come to Uganda?"

While Human Rights Watch was not granted access to the case file, the case appears to correspond with a case of rape of a girl in Baidoa in May 2013 investigated by Human Rights Watch.

In May 2013, a 12-year-old Somali girl from Baidoa went to work on her parents' farm on the outskirts of the town. A Ugandan soldier approached the farm. Her mother told Human Rights Watch: "She wore a *sako* [long robe] and jeans under it. After tearing the jeans, he raped her, he cut her vagina, he wounded her very badly. We don't know if he made that cut with the knife or just with himself."[116]

The girl's relatives told Human Rights Watch that Somali soldiers nearby intervened.[117] The girl's parents were taken to meet with AMISOM officials, and told by the Somali interpreter that AMISOM would give them 50 camels as compensation. The local Somali authorities involved in the case told the relatives to remain silent, not talk to the media or to any nongovernmental organizations about the case, and wait for the compensation.[118] The survivor's father told Human Rights Watch a few weeks after the incident: "I repeatedly go to AMISOM to get compensation. I have to rent a bicycle to go to the base. They tell us they have arrested the man, and now we have to wait."

According to the girl's mother, AMISOM called the survivor's cousin, a witness, and the girl herself to identify the soldier. They all identified the same soldier. The girl's parents said AMISOM never approached them about any court case. The mother however said: "A young man from AMISOM told me one time that there was a court hearing in Mogadishu about my daughter's case, and I asked, 'Why we were not contacted if there is a hearing?' and he couldn't tell me why. I can't trust the existence of the court if I was not informed, because there must be the victim in court if they charge someone with rape."

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[116] Human Rights Watch telephone interview with R.S.M., June 8, 2014

[117] Human Rights Watch telephone interview with R.S.M, June 26, 2013

[118] Human Rights Watch telephone interview with R.S.M., June 8, 2014; Human Rights Watch telephone interview with H.M.M, June 26, 2013.

The girl's mother spoke about the awful consequences for her daughter:

> The rape was the beginning, but it became the source of destruction of our family. The case became well known in the city. Everyone in my family became victim of the case, because whenever we go out, people started pointing their fingers at us. My daughter was the victim who felt the physical pain and paid the price of the stigma after that.
>
> People laugh at her whenever she comes out. They say, "An infidel raped her." They say, "A Ugandan soldier raped her."
>
> How can you feel if your daughter asks you, "Mother, why do I live? Mother, do I deserve to live? Mother, I better die to hide my shameful face from the people," and other depressing words.

Other Disciplinary Mechanisms

Boards of Inquiry

Troop-contributing countries regularly establish boards of inquiry to investigate troop misconduct when they receive credible allegations.[119] These can be simultaneous with criminal investigations, focusing primarily on facts, evidence, responsibility, and recommendations for administrative responses, including questions of material compensation and criminal investigations gathering evidence for prosecutions.[120]

Legal advisors to troop-contributing countries told Human Rights Watch of participating in boards of inquiry for a range of allegations, including cases of loss of equipment and killings of civilians. None of the legal advisors and other military court personnel interviewed by Human Rights Watch deployed to Somalia between 2012 and 2013 took part in boards of inquiry into allegations of sexual exploitation and abuse.[121]

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[119] Each troop-contributing country has its own internal procedures on boards of inquiry regulated by the applicable national regulations that place decisions to set up boards of inquiry in the hands of commanding officers. In the case of Uganda, contingent commanders have the power to determine if a board of inquiry is warranted. Human Rights Watch interview with defense lawyer, Kampala, April 4, 2014. In the case of the Kenyan forces, it is the commanding officer who has the authority to set up a board of inquiry. Kenya Gazette Supplement No 114, (Acts No. 25), September 14, 2012, (on file with Human Rights Watch) article 301.

[120] Human Rights Watch interview with lawyer formerly with Burundian contingent, Bujumbura, April 8, 2014.

[121] Human Rights Watch interview with defense lawyer, Kampala, April 4, 2014.

A UN staff member who worked closely with AMISOM said that the determination to establish a board of inquiry can be highly politicized. "The troop-contributing countries want to do what is best for them," he said. "The legal investigations happen, carried out by legal advisors, but then the sector commanders or the like make the final decisions."[122]

Repatriations

Human Rights Watch has documented two cases of repatriations since 2012 as a result of an incident that may have involved soldiers' procurement of prostitutes, but not for the exploitation itself.

In October 2012, the Burundian contingent repatriated two officers. The officers—a major in charge of intelligence at the contingent headquarters and a lieutenant colonel in charge of civil-military relations—had left the base for a prolonged period. They were arrested when they returned to the base by military police.[123] Several military officials told Human Rights Watch that they had received credible information that the two had left the base to meet with Somali women to have sex.[124] However, they said that as no complaints were ever filed, these claims were never investigated.[125] Within days the two officers were repatriated to Burundi on charges of "abandoning the post" and reportedly faced disciplinary measures: suspended for a month and possibly also given a posting in Burundi far from their relatives.[126]

Improving Tracking Mechanisms

Procedures whereby troop-contributing countries are to share information with AMISOM are spelled out in the AMISOM Standard Operating Procedures and also included in MoUs.[127] Legal officers said they shared the outcomes of internal boards of inquiry with the AMISOM headquarters' legal advisors on a regular basis.[128] Specifically, files relating to questions of compensation are reportedly regularly shared as the AMISOM force

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[122] Human Rights Watch Skype interview with UN staff, April 4, 2014.

[123] Human Rights Watch interview with former BNDF contingent official, Bujumbura, April 7, 2014.

[124] Human Rights Watch interview with lawyer formerly with Burundian contingent, Bujumbura, April 8, 2014; Human Rights Watch interview with BNDF contingent official, Bujumbura, April 7, 2014.

[125] Human Rights Watch interview with former BNDF contingent official, Bujumbura, April 7, 2014.

[126] Human Rights Watch interview with former BNDF contingent official, Bujumbura, April 7, 2014; Human Rights Watch interview with General Major Fabien Nzisabira, BNDF Deputy Chief of Staff, Bujumbura, April 4, 2014; Human Rights Watch interview with Colonel Jean-Baptiste Biherengende, Office of Peace Support Operations in BNDF Chief of Staff, April 10, 2014.

[127] AMISOM, "Standing Operating Procedures," March 2007, on file with Human Rights Watch, article 4077.

[128] Human Rights Watch interview with defense lawyer, Kampala, April 4, 2014.

commander has final sign-off on compensation claims before they are forwarded to the AU headquarters.[129]

However, others said troop-contributing countries did not share all the required information relating to misconduct, investigations, and prosecutions.[130] A former Burundian legal officer said: "There is little exchange of information with other troops, it's as though [such cases] are an embarrassment that the forces don't want to publicize."[131] A UN staff member who worked closely with AMISOM said: "Soldiers have been arrested for a whole range of crimes and offenses, but the troop-contributing countries see it as highly confidential…. Most TCCs [troop contributing countries] don't want to air their dirty laundry in public."[132]

Preventing Sexual Exploitation and Abuse

Troop-contributing countries have taken preventive action to reduce misconduct and abuses by their forces, particularly through trainings and sensitization work. Ensuring that peacekeeping forces receive comprehensive training on relevant standards, the nature and causes of abuses, as well as consequences of violations of these standards can be an important measure for preventing such abuses. Vetting of peacekeepers to remove individuals with a record of past abuse is also important to prevent further abuses. UN peacekeeping missions have long acknowledged that a greater number of female personnel in peacekeeping improves conduct within the mission.[133] Greater numbers of female soldiers encourage local women to deposit complaints as they are

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[129] Human Rights Watch interview with former BNDF contingent official, Bujumbura, April 7, 2014; AMISOM, "Standing Operating Procedures," on file with Human Rights Watch, article 4077.

[130] Human Rights Watch interview with observer, Kampala, April 3, 2014; Human Rights Watch interview with international observer, Nairobi, March 4, 2014.

[131] Human Rights Watch interview with lawyer formerly with Burundian contingent, Bujumbura, April 7, 2014.

[132] Human Rights Watch skype interview with UN staff, April 4, 2014.

[133] The UN Special Committee on Peacekeeping Operations has stated that expanding the participation of women in peacekeeping is "particularly important in the context of combating sexual exploitation and abuse, since it would facilitate the mission's task of making meaningful contact with vulnerable groups and non-governmental organizations in the local community, as well as efforts to encourage the reporting of abuse and to promote an environment that discourages such acts." United Nations General Assembly, Report of the Special Committee on Peacekeeping Operations and its Working Group on the 2005 resumed session, A/59/19/Add.1, §12. DPKO "Enhancing the Operational Impact of Peacekeeping Operations: Gender Balance in Military and Police Services Deployed to UN Peacekeeping Missions. Background Paper," Policy Dialogue, New York, March 28-29, 2006, p. 5.

also more likely to report incidents to female officers.[134] AMISOM has also recognized that female soldiers provide a "meaningful contribution to solidifying peace and security gains in any mission."[135]

Pre-Deployment Trainings

Most of the troops that have recently been deployed to Somalia underwent a series of pre-deployment trainings.[136] Higher ranking officials and commanders are expected to undergo further specialized training, including on sexual violence, to ensure that they are able to raise awareness among troops under their command of key standards and laws, and also regarding the AUC Code of Conduct and other policies related to sexual abuse.[137]

In his response to a letter from Human Rights Watch, the Burundian chief of staff, Gen.-Maj. Prime Niyongabo, stated that these trainings are obligatory.[138] However, some legal advisors from troop-contributing countries and staff of international organizations questioned whether all troops in fact undergo the required pre-deployment trainings, and said that there was no means of guaranteeing attendance.[139] One legal advisor raised particular concerns about senior commanders dropping out of trainings, even though training of commanders is particularly essential to minimizing abuse.[140]

Dissemination of the African Union Commission's Code of Conduct

Troop-contributing countries are disseminating the AUC Code of Conduct in national languages in card form among their troops. One Burundian legal officer said he would visit the different Burundian units in order to raise awareness of the code of conduct, and also said that he sent out the UN secretary-general's 2003 *Bulletin on special measures for*

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[134] Sahana Dharmapuri, "Not Just a Numbers Game: Increasing Women's Participation in UN Peacekeeping," International Peace Institute Policy Papers, July 22, 2013, p. 7, http://www.ipinst.org/publication/policy-papers/detail/404-not-just-a-numbers-game-increasing-womens-participation-in-un-peacekeeping.html (accessed August 15, 2014)

[135] AMISOM, "AMISOM Commends Women Peacekeepers in Somalia," February 2014, http://amisom-au.org/2014/02/amisom-commends-women-peacekeepers-in-somalia/ (accessed August 15, 2014)

[136] See reply from BNDG Chief of Staff to Human Rights Watch, 1755/01.22.0, dated June, 14, 2014 (Annex 2), p. 2.

[137] MoUs article 7.5; Human Rights Watch interview with Colonel Jean-Baptiste Biherengende, Office of Peace Support Operations in BNDF Chief of Staff, April 10, 2014. The US, France along with the UN including country UN Human Rights components as well as the International Committee of the Red Cross (ICRC) are involved in trainings including on international humanitarian law and human rights. See also response Letter from Chief of Staff of BNDF in Annex 2.

[138] See reply from BNDG Chief of Staff to Human Rights Watch, 1755/01.22.0, dated June, 14, 2014, (Annex 2), p. 2.

[139] Human Rights Watch interview with former KDF legal advisor, Nairobi, May 29, 2014; Human Rights Watch interview with ICRC official, Nairobi, April 28, 2014; Human Rights Watch interview skype interview with former UN staff, July 24, 2014.

[140] Human Rights Watch interview with former legal advisor, Nairobi, May 30, 2014.

protection from sexual exploitation and sexual abuse to units but was never able to hold discussions on it.[141] However, as with many other measures, much depends on the commitment of commanders. Legal officers questioned the capacity and willingness of the commanders to systematically remind troops of their responsibilities under these codes.[142]

Vetting

While senior military officials in Uganda and Burundi were able to describe to Human Rights Watch pre-deployment vetting on medical grounds in detail, they were unable to spell out exactly what procedures are in place to prevent individuals with a criminal file or those having faced disciplinary measures in the past from deployment to Somalia or other peace support missions.

A former Burundian legal officer said, "We were told that all officers that are repatriated could not be sent back to a peacekeeping mission, but not sure where this is written."[143] The head of the peacekeeping department within the Burundian Chief of Staff said they keep track to make sure that people with criminal records or those who have been repatriated for misconduct are not redeployed but that ultimately the decision is taken at the level of the chief of staff. [144] One military court official in Burundi said: "Some people with pending cases before the military court in Bujumbura have been sent to Somalia." The head of legal services of the Ministry of Defense in Uganda insisted: "We do vet, look at files, we don't want to include people with a bad track record."[145]

Enhancing the Presence of Women within AMISOM

So far female representation within AMISOM is minimal. While there is little accurate data on female representation, a report by the African Centre for the Constructive Resolution of Disputes (ACCORD) found that only about 1.5 percent of AMISOM's military personnel are

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[141] Human Rights Watch interview with Captain Gahungu, substitut de l'auditeur militaire (deputy military prosecutor), Bujumbura, April 9, 2014.

[142] Human Rights Watch interview with lawyer formerly with the Kenyan contingent, Nairobi, May 29, 2014.

[143] Human Rights Watch interview with former BNDF contingent official, Bujumbura, April 7, 2014.

[144] Human Rights Watch interview with Colonel Jean-Baptiste Biherengende, Office of Peace Support Operations in BNDF Chief of Staff, April 10, 2014.

[145] Human Rights Watch interview with Colonel Godard Busingye, Deputy Chief of Legal Services, Kampala, April 4, 2014.

women.[146] Out of the troop-contributing countries, the report states that the UPDF has the highest percentage of women deployed in its forces to Somalia: in 2013, 3.1 percent of its forces were women, while the BNDF had fewer than 1 percent.[147] Officials and members of the BNDF said that the limited number of women within the BNDF made a significant increase of women among its peacekeeping forces very difficult.[148]

Women tend to be confined to administrative or assistance roles. With the exception of one legal advisor sent by the UPDF in 2013, Human Rights Watch found that all other legal advisors sent by Uganda, Burundi, and Kenya have been men.

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[146] Nicolle Chido Manjeya and Olivia Victoria Davies, "AMISOM Troop-contributing Countries and Female Representation," *Conflict Trends* (2013)(2), http://www.accord.org.za/images/downloads/ct/ACCORD-Conflict-Trends-2013-2.pdf (accessed July 11, 2014).

[147] Ibid.

[148] Human Rights Watch interview with former BNDF contingent official, Bujumbura, April 7, 2014; Human Rights Watch interview with Colonel Jean-Baptiste Biherengende, Office of Peace Support Operations in BNDF Chief of Staff, April 10, 2014.

V. AU, AMISOM Response to Sexual Exploitation and Abuse Allegations

The civilian heads of the peacekeeping missions are responsible for putting in place clear administrative directives, structures, and practices to help foster an environment to prevent sexual exploitation and abuse by personnel serving in those missions. They also need to ensure that all personnel are fully aware of the rules and standards governing their behavior and the need to take immediate and meaningful action when these standards may have been violated.[149] Strong leadership should be backed up by an institutional "zero tolerance" policy against sexual exploitation and abuse and prompt, systematic, and transparent measures to tackle misconduct.

AMISOM's senior leadership appears to have largely undermined or denied allegations of sexual exploitation and abuse by its troops and personnel.[150] On the limited occasions when international actors have raised the issue with AMISOM, "the attitude is that these are isolated cases," an international observer told Human Rights Watch.[151] Furthermore, the report of the SEMG noted intimidation of women by AMISOM troops seeking to silence allegations of exploitation and abuse.

Ensuring Accountability for Sexual Exploitation and Abuse

In a letter responding to Human Rights Watch's queries, the former SRCC, Mahamat Saleh Annadif, acknowledged AMISOM's shortcomings in its investigative capacity and complaints mechanisms.[152] The letter reports that the AU Peace and Security Operations Division had recently deployed a conduct and discipline advisor who concluded that more in-depth investigations into allegations of sexual abuse and exploitation were needed.[153]

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[149] Muna Ndulo, "The United Nations Responses to the Sexual Abuse and Exploitation of Women and Girls by Peacekeepers during Peacekeeping Missions," *Berkeley Journal of International Law*, (2009) http://scholarship.law.cornell.edu/cgi/viewcontent.cgi?article=1058&context=facpub, p. 22.

[150] Human Rights Watch interview with international observer, Nairobi, March 4, 2014; United Nations Security Council, "Letter Dated 12 July 2013 from the Chair of the Security Council Committee Pursuant to Resolutions 751 (1992) and 1907 (2009) Concerning Somalia and Eritrea Addressed to the President of the Security Council," July 12, 2013, S/2013/413, http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N13/361/85/PDF/N1336185.pdf?OpenElement (accessed June 11, 2014), Annex 8.2, paras. 35 through 40.

[151] Human Rights Watch interview with international observer, Nairobi, March 4, 2014.

[152] See AMISON response letter, Annex 3.

[153] AMISOM response letter, Annex 3, p. 8; Human Rights Watch has not assessed the independence of the PSOD's conduct and discipline advisor.

At present, AMISOM relies on the board of inquiry system.[154] While Human Rights Watch did not carry out a thorough assessment of the boards of inquiry at the AMISOM headquarters' level, these do not appear to be established in a systematic manner and their outcomes are often delayed and rarely made public or shared with relevant actors including troop-contributing countries and the UN Human Rights Unit.[155] In addition, the boards are composed of AMISOM officials who do not appear to have the necessary training, skills, or independence to carry out effective investigations into sexual exploitation and abuse. [156]

AMISOM told Human Rights Watch that to date, no allegations of rape have so far been found credible.[157]

AMISOM Board of Inquiry on Allegations of Gang Rape

Human Rights Watch assessed one AMISOM board of inquiry into an allegation of rape and found it inadequate.

In August 2013, a Somali woman told the Somali media she was abducted by Somali soldiers and transferred to AMISOM soldiers who gang raped her and dumped her on the street. Her hospital records indicated that she had injuries consistent with rape and other physical abuse.[158]

A joint Somali government/AMISOM board of inquiry was established to investigate the incident and identify those responsible. The government said that the incident was reported to have occurred on the Ugandan Maslah camp in north Mogadishu. AMISOM and civil society representatives were first included but later excluded from participating in investigations due to alleged conflicts of interest. The board was supposed to complete its findings within 60 days and present them to a designated Somali government ministerial team.

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[154] Boards of inquiry are expected to establish facts, causes, and responsibilities and can make recommendations on the administrative action that should be taken.

[155] Human Rights Watch email correspondence with UN staff, June 12, 2014.

[156] AMISOM, "Standing Operating Procedures," on file with Human Rights Watch, article 4072 spells out the composition of the board of inquiry.

[157] See AMISOM response letter in Annex 3, p. 7.

[158] "Somalia: Deeply Flawed Rape Investigation," Human Rights Watch news release, November 11, 2013, http://www.hrw.org/news/2013/11/10/somalia-deeply-flawed-rape-inquiry.

AMISOM also set up a separate headquarters' board of inquiry. In November 2013, AMISOM's spokesperson told Human Rights Watch the allegations had been declared unfounded even though the investigators failed to interview the woman or independent witnesses. However, the spokesperson was unable to provide further information on the composition of the board or the terms of reference of its investigation aside from noting that no one from the Ugandan armed forces participated.[159] Human Rights Watch found that the investigation included a visit to Maslah camp, interviews with AMISOM personnel at the camp, and a review of the camp log book.[160] At the time this report went to press, a year after the launch of the inquiry, no report had been made public.

While the investigation was ongoing, the AMISOM spokesperson denied the allegations at a news conference, and questioned why AMISOM soldiers would abduct just one woman when they regularly treat hundreds of women and girls as patients. He told the media: "Wherever AMISOM has a base, even in the smallest place, there are 300 to 500 girls treated daily, let me ask you why only one woman is targeted out of 300, why were 300 not raped?"[161]

Preventing Sexual Exploitation and Abuse

AMISOM has begun to establish administrative structures that will be responsible for addressing sexual exploitation and abuse and started hiring personnel to fill these structures. AMISOM has recently appointed a "head of protection, human rights and gender,"[162] and told Human Rights Watch that they are also hiring two conduct and discipline officers. [163] According to the SRCC, the establishment of the conduct and discipline unit within AMISOM forms part of a wider AU effort to enhance the organization's capacity to address misconduct at the headquarters' level and in the peace support missions. [164]

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[159] Human Rights Watch telephone interview with AMISOM spokesperson, November 4 and 5, 2013.

[160] Human Rights Watch interviews with UN staff, November 2013; Human Rights Watch email correspondence with Somali NGO, November 2013.

[161] "Somalia: Deeply Flawed Rape Investigation," Human Rights Watch news release, November 11, 2013; AMISOM spokesperson speech, August 24, 2013, http://www.bosasopress.com/afhayeenka-amisom-oo-hadalo-loo-fasirtay-jees-jees-isaga-fogeeyay-kufsi-aygeysteen-amisom-dhageyso (accessed August 19, 2014)

[162] AMISOM response letter, Annex 3, p. 8; See African Union, "Vacancy Announcement: Head of Protection, Human Rights and Gender," 2014, http://www.au.int/en/sites/default/files/Head%20Protection%20Human%20Rights%20and%20Gender%20P5%20_E.pdf (accessed June 10, 2014).

[163] AMISOM response letter, Annex 3, p. 8.

[164] Ibid p. 8.

AMISOM's gender unit, also established as part of a broader AU effort, is mandated to address gender-related issues and advance gender equality in the mission.[165] It held in-house sensitization trainings with senior officers in Mogadishu, including on preventing sexual exploitation and abuse.[166] AMISOM, including the gender unit, has also carried out activities as part of its mentoring mandate aimed at supporting Somali government efforts in a range of areas, including human rights.[167]

The gender unit has also been tasked with outreach activities.[168] Outreach measures taken so far, however, appear to be aimed more at protecting AMISOM's public image than tackling the issue of sexual exploitation and abuse. One observer described AMISOM's underlying attitude: "They continue to see it as a public relations exercise … they put up posters, made t-shirts [with messaging around AMISOM's commitment to promote women's rights]."[169] Some of the gender unit's outreach programs, including training displaced women on the use self-defense, appear out of touch with local needs and are likely very ineffective in combatting sexual violence and exploitation, particularly when perpetrators are armed and uniformed.[170] While AMISOM said they were engaging with local women's rights groups in order to raise awareness of available mechanisms within AMISOM, Somali women's organizations told Human Rights Watch that as of June 2014, AMISOM had not consulted them on this issue.[171]

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[165] The first AMISOM gender officer was only deployed to Mogadishu in 2012. As of 2013, there was only one officer working full time on gender issues. Ingvild Magnæs Gjelsvik, "Women, Peace and Security in Somalia: A Study of AMISOM," *Norwegian Institute of International Affairs*, November 2013, http://www.nupi.no/content/download/477272/1589450/file/NUPI%20Policy%20Brief%2016-Gjelsvik.pdf (accessed July 11, 2014).

[166] "AMISOM Gender Unit conducts workshop on Good practices in Preventing Sexual Exploitation and Abuse," AMISOM press release, June 2014, http://amisom-au.org/2014/06/amisom-gender-unit-conducts-workshop-on-good-practices-in-preventing-sexual-exploitation-and-abuse/; "AMISOM conducts workshop on Sexual Exploitation and Abuse for officers," AMISOM press release, January 30, 2014, http://amisom-au.org/2014/01/amisom-conducts-workshop-on-sexual-exploitation-and-abuse-for-officers/; "AMISOM Holds Prevention of Sexual Exploitation Awareness Training Forum, outreach to Sector on Stabilization activities," AMISOM press release, August 1, 2013, http://amisom-au.org/2013/08/amisom-holds-prevention-of-sexual-exploitation-awareness-training-forum-outreach-to-sectors-on-stabilization-activities/.

[167] For example, AMISOM organized a workshop and supported the drafting of a draft national gender policy by the Ministry of Social Affairs in 2013. The draft policy, reviewed by Human Rights Watch in August 2013, failed to include provisions on sexual and gender based violence, and has to date not been revised or adopted. See Human Rights Watch, "Here, Rape is Normal," February 2014, http://www.hrw.org/reports/2014/02/13/here-rape-normal, Annex 1.

[168] AMISOM response letter, Annex 3, p. 5.

[169] Human Rights Watch interview with international observer, Nairobi, March 4, 2014.

[170] "AMISOM launches self-defense training for Somali women," AMISOM press release, September 2013, http://amisom-au.org/2013/09/amisom-launches-self-defense-training-for-somali-women/ (accessed August 15, 2014)

[171] Human Rights Watch email correspondence with Somali women's rights organization, June 10, 2014.

AMISOM Policy on prevention and response to sexual exploitation and abuse and Related Annexes

A positive step take by AMISOM so far is the drafting of a *Policy on prevention and response to sexual exploitation and abuse* (known as the PSEA policy) in September 2013.[172]

The policy states that AMISOM "has zero-tolerance for any form of sexual exploitation and abuse and is committed to putting in place [a] robust framework designed to prevent this menace." Under the policy, "exchange of money, employment, goods or services for sex, including sexual favors or other forms of humiliating, degrading, or exploitative behavior [are] prohibited."[173] Sexual exploitation and abuse by AMISOM personnel are "acts of gross misconduct" and may be grounds for termination of employment.[174]

While the policy is well-intentioned, it suffers from several gaps and shortcomings. AMISOM wrote to Human Rights Watch that a workshop would be held in July 2014 to review the draft; the workshop has since been postponed.[175]

Significantly, the policy fails to define what constitutes "sexual exploitation" and "sexual abuse," despite clear international guidance noted above. The definition of a violation can significantly impact whether it is reported and how it is investigated and prosecuted. Without an explicit definition, AMISOM personnel, including investigators, have little guidance as to what behavior is prohibited and are hard-pressed to objectively determine whether allegations involve prohibited acts. For a complaint mechanism to be effective, victims must also be aware of what constitutes prohibited behavior. This shortcoming could be addressed by reference to the definitions of sexual exploitation and sexual abuse featured in the UN secretary-general's 2003 *Bulletin on special measures for protection from sexual exploitation and sexual abuse*.

The lack of clarity is exacerbated by the language of the PSEA policy, which commits AMISOM to "[e]stablish and ensure that complaint mechanisms for reporting sexual exploitation and abuse are accessible, particularly to participants and beneficiaries of

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[172] AMISOM, "Policy on Prevention and Response to Sexual Exploitation and Abuse," September 2013, http://amisom-au.org/wp-content/uploads/2014/01/Easy-to-read-guide_AMISOM-SEA-POLICY.pdf. (accessed August 15, 2014)

[173] AMISOM, "Policy on Prevention and Response to Sexual Exploitation and Abuse," p.5

[174] Ibid.

[175] AMISOM response letter, Annex 3, p. 3.

AMISOM programs and *those AMISOM focal points for receiving complaint* [sic] *understand how to discharge their duties*" [emphasis added], as well as to "[i]nvestigate allegations of sexual exploitation and abuse involving AMISOM Personnel in a timely and professional manner, and *to the best of AMISOM ability to encourage its Personnel to do the same*" [emphasis added].[176] At the same time, it is unclear to whom the policy applies other than to AMISOM personnel. While the policy states that it applies to "related personnel," the term is not defined.

The PSEA policy is also undermined by vague language in relation to protection of victims, witnesses, and whistleblowers who report sexual exploitation and abuse, and stipulates that such incidences have to be reported in "good faith."[177] Since a good faith determination can only be established after an independent investigation has been conducted, such a requirement subjects victims, witnesses, and whistleblowers to the real risk of retaliation, and would invariably discourage reports of abuse. The policy should clarify that any retaliation against those who report sexual exploitation and sexual abuse will be appropriately punished.

Furthermore, the policy does not have a clear obligation that troop-contributing countries should undertake background and criminal reference checks during the recruitment process to vet all individuals and certify that personnel they provide to serve with AMISOM have not committed, or are alleged to have committed, sexual violence or exploitation.[178] While it is the primary responsibility of troop-contributing countries to vet their personnel in order to ensure the exclusion of those associated with serious violations of international humanitarian and human rights law, including sexual violence, AMISOM should also conduct background checks of senior officials. While the policy contains language on preventing the rehiring or redeployment of those previously found responsible for sexual exploitation and abuse with AMISOM, it is silent with respect to perpetrators being sent to other AU peace support missions.[179] This shortcoming is compounded by the absence of an

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[176] AMISOM, "Policy on Prevention and Response to Sexual Exploitation and Abuse," para. 5, p. 6, para. 7, p. 7.

[177] The PSEA policy talks about taking "appropriate action to the best of AMISOM abilities to protect persons from retaliation when allegations on sexual exploitation and abuse are made in good faith," para. 6, p. 7.

[178] Inter-Agency Standing Committee Task Force on Gender and Humanitarian Assistance (IASC), Guidelines for gender-based violence interventions in humanitarian settings, 2005, p. 39.

[179] AMISOM, "Policy on Prevention and Response to Sexual Exploitation and Abuse," para. 4, p 6. In compliance with applicable laws and to the best of its abilities, prevent perpetrators of sexual exploitation and abuse from being rehired or redeployed by AMISOM. This could include use of background and criminal reference checks.

information exchange or reporting mechanism at the AU level and the fact that this is an AMISOM, and not an AU policy.

Although the policy commits AMISOM to ensure "high level oversight and information systems on SEA [sexual exploitation and abuse] reports received and actions taken in order to monitor the effectiveness, report progress and improve efforts to prevent and respond to sexual exploitation and abuse," there is no clear obligation to report to the AU on allegations made and investigations conducted.[180] This could be remedied by a commitment by AMISOM to report sexual exploitation and abuse to the AU Peace and Security Council.[181]

The policy on sexual exploitation and abuse recognizes that these forms of abuse are grounds for termination of employment.[182] However, it does not provide for disciplinary fines or reparative schemes consistent with the international recommendations outlined below. Similarly, while the policy mentions basic "emergency assistance" to complainants, there is no language on AMISOM assistance and support to children born as a result of sexual exploitation and abuse. Including such entitlements would comply with the UN Comprehensive Strategy on Assistance and Support to Victims of Sexual Exploitation and Abuse by United Nations Staff and Related Personnel.[183]

In relation to awareness raising activities, AMISOM's policy refers to the creation and maintenance of "mechanisms to systematically educate AMISOM Personnel and Related-Personnel and communities we serve on measures taken to prevent and respond to sexual exploitation and abuse."[184] In order to tackle sexual exploitation and sexual abuse efficiently and to ensure abuses are reported, AMISOM should go beyond general education about measures taken to prevent and respond to sexual exploitation and abuse, and engage in a more profound way with AMISOM personnel and the population affected. The policy should be revised to require AMISOM to provide extensive training for its personnel prior to deployment, on arrival, and during the mission assignment and to

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[180] AMISOM, "Policy on Prevention and Response to Sexual Exploitation and Abuse," p. 6

[181] Ibid. para. 12; See para. 7 of the AUC code of conduct.

[182] AMISOM, "Policy on Prevention and Response to Sexual Exploitation and Abuse," p .5.

[183] Ibid. para. 9.; UN General Assembly "Report of the Ad Hoc Open-ended Working Group on Assistance and Support to Victims of Sexual Exploitation and Abuse, A/62/595, 2007, http://www.un.org/ga/search/view_doc.asp?symbol=A/62/595.

[184] AMISOM, "Policy on Prevention and Response to Sexual Exploitation and Abuse," para. 19.

establish an effective program of outreach to the local community so they are fully aware of issues concerning sexual exploitation and sexual abuse, including how it is defined and the specificities of the complaints and reparative mechanisms.

The AUC Reviewed Code of Conduct is attached as an annex to the PSEA policy, though there is no reference in the policy itself to the code or how it relates to the policy, including to whom it applies. The AUC Code of Conduct, unlike the UN secretary-general's 2003 *Bulletin on special measures for protection from sexual exploitation and sexual abuse*, does not define "sexual exploitation" or "sexual abuse." Nevertheless, the code specifies that individuals are not to "indulge in acts of sexual, physical or psychological abuse or exploitation of the local population."[185] Without further elaboration, the code states that acts involving "any exchange of money, employment goods or services for sex" and "any type of sexual activities with children" must be "punished." [186]

Annex 2 of the PSEA policy outlines procedures for complaints concerning sexual abuse and exploitation, though these are inadequate.[187] There is little information on investigation procedures: no guidance, for example, on who investigators are and whether they are independent from the mission command, no timelines for the reporting procedure, and no language on where or how complaints should be filed and how to provide feedback on follow-up actions to complainants. Further, there is no reference to a data collection system that could be used to collect and track information on the number and type of allegations, investigations, and resolutions, which could help ensure that perpetrators are not rehired.

Annex 2 of the PSEA policy also requires that the initial complaint includes information about "who the complainant is" but is silent on whether anonymous complaints (in which the identity of a victim/complainant is kept confidential) may be investigated if there is sufficient background information and there are enough witnesses of the alleged abuse. The policy should be revised to state that an allegation should not be rejected merely because it does not meet all the procedural requirements for a complaint.

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[185] AMISOM, "Policy on Prevention and Response to Sexual Exploitation and Abuse," Annex 1, para.4

[186] Ibid, para. 5

[187] International Council of Voluntary Agencies, Building Safer Organisations, "Guidelines: Receiving and investigating allegations of abuse and exploitation by humanitarian workers," http://www.hapinternational.org/pool/files/bso-guidelines.pdf (accessed March 11, 2014).

VI. UN Standards and International Law

UN Standards

A series of scandals involving sexual exploitation and abuses within UN peacekeeping missions in the last two decades pushed the UN to define prohibited conduct and work to enforce a "zero tolerance" approach.[188] In 2003, the UN secretary-general issued the *Bulletin on special measures for protection from sexual exploitation and sexual abuse.* The Bulletin's definition of exploitation, which has become the international norm, included situations where women and girls are vulnerable and a differential power relationship exists between them and peacekeepers and humanitarian actors. The Bulletin explicitly prohibited any "exchange of money, employment, goods or services for sex, including sexual favours or other forms of humiliating, degrading or exploitative behavior."[189] It reiterated that sexual exploitation and sexual abuse constitute acts of serious misconduct and are therefore grounds for disciplinary measures, including summary dismissal.

A UN review in 2005 found that there was little, if any, compliance with the Bulletin and made extensive recommendations for a complete overhaul of the UN system to address sexual abuse and exploitation by peacekeepers.[190] Significantly, the report recommended a series of preventive measures to help eliminate sexual exploitation and abuse in peacekeeping missions. The recommendations included: training and sensitizing of troops to issues of violence against women; an effective program of outreach to local communities; data collection systems to track the investigation and resolution of allegations of sexual exploitation and abuse; and the establishment of several full-time positions at headquarters and in the field to coordinate action on sexual abuse and exploitation issues in missions. The report also recommended holding on-site courts martial by troop-contributing countries that would facilitate access to witnesses and evidence in peacekeeping areas.[191]

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[188] Sexual exploitation and abuse have been reported throughout UN peacekeeping missions, including Cambodia and Bosnia-Herzegovina in the 1990s, West Africa in 2002, the Democratic Republic of Congo in 2004, and more recently in Haiti in 2012.

[189] UN secretary-general's *Bulletin on special measures for protection from sexual exploitation and sexual abuse*, ST/SGB/2003/13, 9 October 2003. http://cdu.unlb.org/Portals/0/Documents/KeyDoc4.pdf (accessed August 15, 2014)

[190] UN General Assembly, Letter dated 24 March 2005 from the Secretary-General to the President of the General Assembly, March 24, 2005, http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/SE%20A%2059%20710.pdf (accessed August 15, 2014)

[191] Ibid., p 16., para 35.

In January 2014, the UN Office of the Special Representative of the Secretary-General on Violence in Conflict (SRSG-SVC) and the African Union Commission (AUC) signed the Framework of Cooperation Concerning the Prevention and Response to Conflict-related Sexual Violence in Africa to "collectively address conflict-related sexual violence in Africa."[192] Under the landmark agreement, the AUC's Peace and Security Department and the SRSG-SVC are recognized as focal points and the two bodies agree to collaborate on priority areas such as combating impunity for perpetrators and multi-sectoral services for survivors.[193] The framework commits the bodies to develop a joint strategy to eradicate sexual violence in conflict.[194] However, it does not define "sexual violence in conflict" and none of its provisions refer to sexual "exploitation." As part of any strategy, it is crucial that the bodies include specific language on sexual exploitation and abuse with strategies that target sexual violence committed by peacekeepers themselves.

International Humanitarian and Human Rights Law

Acts of sexual abuse and exploitation in conflict settings violate international humanitarian and human rights law, which are applicable to the conduct of AMISOM personnel.

International humanitarian law, or the laws of war, sets out protections for civilians in both international and non-international (internal) armed conflicts and is binding on both states and non-state armed groups. International humanitarian law is also binding on troops participating in multinational peace support operations if they take part in the hostilities.[195]

The four Geneva Conventions of 1949 and its Additional Protocols implicitly and explicitly condemn sexual violence as serious violations of humanitarian law.[196] Sexual violence is

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[192] "The African Union and the United Nations Sign An Agreement on Preventing and Responding to Sexual Violence in Africa," African Union press release, February 1, 2014, http://www.peaceau.org/uploads/auc-compress-svcpc-31-1-2014.pdf. (accessed August 15, 2014)

[193] Framework of Cooperation between the United Nations Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict and the African Union Commission Concerning the Prevention and Response to Conflict-related Sexual Violence in Africa, January 31, 2014, on file with Human Rights Watch.

[194] UN and African Union Commission, "Framework of Cooperation on the Prevention and Response to Conflict-related Sexual Violence in Africa," 2014, on file with Human Rights Watch.

[195] See UN Secretary-General's Bulletin, para. 1; see also, Inter-Agency Standing Committee Task Force on Gender and Humanitarian Assistance, Guidelines for Gender-based Violence Interventions in Humanitarian Settings, 2005, p. 78.

[196] See the four Geneva Conventions of 1949 and the two 1977 Protocols Additional to the Geneva Conventions (Protocols I & II). Common article 3 to the Geneva Conventions prohibits "violence to life and person" including cruel treatment and torture and "outrages upon personal dignity." The prohibition of "outrages upon personal dignity" is recognized in Protocols I and II as a fundamental guarantee for civilians and combatants no longer participating in hostilities.

also prohibited as a matter of customary international law and under the international criminal courts.[197]

Sexual abuse and exploitation further violate provisions of major international human rights treaties, all of which have been ratified by AMISOM troop-contributing countries.[198] Sexual abuse and exploitation are forms of gender-based violence and discrimination against women, as well as violations of the right to bodily integrity, to security of the person, to the highest attainable standard of physical and mental health, and to freedom from torture and cruel, inhuman, or degrading treatment or punishment. These rights also apply to internally displaced people, pursuant to the UN Guiding Principles on Internal Displacement, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol), and the AU Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention). [199]

As the UN Committee on the Elimination of Discrimination against Women (CEDAW Committee) has noted, gender-based violence constitutes a form of discrimination that states have a due-diligence obligation to prevent, investigate, prosecute, and punish. In

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Article 75 of Protocol I, applicable to international armed conflicts, specifies that this prohibition includes "humiliating and degrading treatment, enforced prostitution and any other form of indecent assault." Article 4 of Protocol II, applicable to internal armed conflicts, specifically prohibits rape among the fundamental guarantees of humane treatment.

[197] See International Committee of the Red Cross, Customary International Humanitarian Law (Cambridge: Cambridge Univ. Press, 2005), rule 93 ("Rape and other forms of sexual violence are prohibited"). See also Rome Statute of the International Criminal Court, art. 8(2)(b)(xxii) and (e)(vi); Statute of the International Criminal Tribunal for the former Yugoslavia, art. 5(g); and Statute of the International Criminal Tribunal for Rwanda, art. 3(g).

[198] See, for example, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and the Convention on the Rights of the Child (CRC). Burundi, Djibouti, Ethiopia, Kenya, Sierra Leone, and Uganda have all ratified the ICCPR, the ICESCR, CEDAW, and the CRC.

[199] These rights are reflected in the UN Guiding Principles on Internal Displacement, which provide that internally displaced persons "shall enjoy, in full equality, the same rights and freedoms under international and domestic law as do other persons in their country. They shall not be discriminated against in the enjoyment of any rights and freedoms on the ground that they are internally displaced." See UN Economic and Social Council (ECOSOC), "Guiding Principles on Internal Displacement," U.N. Doc. E/CN.4/1998/53/Add.2 (1998), July 22, 1998, introductory note, principle 1. Under the Maputo Protocol, governments are obligated to protect internally displaced persons against all forms of violence, rape, and other forms of sexual exploitation, as well as to bring their perpetrators to justice before a competent criminal jurisdiction. See Maputo Protocol, art. 11(3). Only Burundi and Uganda have ratified the Protocol among troop-contributing countries to Somalia, while Djibouti, Ethiopia, Kenya, and Sierra Leone have signed. The Kampala Convention provides a comprehensive description of the rights of internally displaced persons and the obligations of states and non-state actors. Kenya has not ratified the convention, while Burundi, Djibouti, Ethiopia are signatories but not yet become parties to the convention. Sierra Leone and Uganda have both ratified the convention. African Union, Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention), October 22, 2009, entered into force on December 6, 2012.

the context of armed conflict, states have an obligation to implement "specific protective and punitive measures."[200]

The Maputo Protocol also commits governments to combat all forms of discrimination against women and to adopt appropriate legislative and institutional measures to do so.[201] Under the Maputo Protocol, governments are obligated to adopt and implement appropriate measures to ensure the protection of women from all forms of violence, particularly sexual and verbal violence.

Among the key steps both the CEDAW Committee and the Maputo Protocol recommend to address gender-based violence are effective legal measures, including penal sanctions, effective complaints procedures, civil remedies, and compensatory provisions; preventive measures, including public information and education programs such as gender-sensitive training of law enforcement officers and other public officials; and protective measures, including shelters, counseling, rehabilitation, and support services.[202]

Human rights protections against sexual violence also apply to persons under 18. The Convention on the Rights of the Child provides that children must be protected from "all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation – including sexual abuse" and obligates states to "ensure that victims of such acts receive legal and psycho-social redress."[203] The African Charter on the Rights and Welfare of the Child similarly provides that governments "shall undertake to protect the child from all forms of sexual exploitation and sexual abuse."[204] States are also obligated to take preventive and remedial measures against child abuse and torture, particularly sexual abuse.[205]

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200 CEDAW General Recommendation No.19 on Violence Against Women, 11th session, 1992, para. 16.

201 Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol), adopted by the 2nd Ordinary Session of the Assembly of the Union, Maputo, CAB/LEG/66.6 (Sept. 13, 2000); reprinted in 1 Afr. Hum. Rts. L.J. 40, entered into force Nov. 25, 2005, arts. 2 and 4. Somalia has not ratified the protocol.

202 See CEDAW General Recommendation No.19 on Violence Against Women, 11th session, 1992, para. 24 and Maputo Protocol, art. 4.

203 Convention on the Rights of the Child, adopted November 20, 1989, G.A. Res. 44/25, Annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. doc A/44/49 (1989), entered into force September 2, 1990, art. 19.

204 African Charter on the Rights and Welfare of the Child, OAU Doc. CAB/LEG/24.9/49 (1990), entered into force November 29, 1999, art. 27. Burundi, Ethiopia, Kenya, Sierra Leone, and Uganda have ratified this charter, and Djibouti has signed the charter but has not ratified it.

205 African Charter on the Rights and Welfare of the Child, arts. 16, 27.

A number of UN Security Council resolutions further address the issue of sexual exploitation and abuse in conflict settings. UN Security Council Resolution 1325 on Women, Peace and Security calls on all parties to armed conflict to take special measures to protect women and girls from gender-based violence, and emphasizes the responsibility of all states to prosecute those responsible for crimes involving sexual and other violence against women and girls.[206] Resolution 1674 on Protection of Civilians condemns sexual violence and sexual exploitation committed by military, police, and civilian personnel involved in UN operations against civilians, particularly women and children, and requests troop-contributing countries to "to take all appropriate action necessary to combat these abuses by such personnel."[207] In relation to children and armed conflict, Resolution 1882 condemns sexual violence against children and urges states to end impunity for such crimes.[208]

Similarly, UN Security Council Resolution 1820 on Women, Peace and Security condemns sexual violence in conflict situations, and outlines specific recommendations for states in relation to peacekeeping forces. [209]

UN Security Council Resolution 1888 reaffirms Resolution 1325 by condemning ongoing sexual violence against women in conflict and post-conflict situations, and underscores accountability and more comprehensive and coordinated action.[210]

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[206] United Nations Security Council Resolution 1325 on Women, Peace and Security, 2000, paras. 10 and 11.

[207] United Nations Security Council Resolution 1674 on Protection of Civilians, 2006, paras. 19 and 20.

[208] United Nations Security Council Resolution 1882 on Children and Armed Conflict, 2009, paras. 1 and 16.

[209] These include: enforcing appropriate military disciplinary measures and upholding the principle of command responsibility; training troops on the categorical prohibition of all forms of sexual violence against civilians, including by taking steps to heighten awareness and the responsiveness of troop and police contributing countries' personnel to protect and prevent sexual violence against women and girls in conflict and post-conflict situations; deploying a higher percentage of women peacekeepers or police; debunking myths that fuel sexual violence; vetting armed and security forces to take into account past actions of rape and other forms of sexual violence; evacuating women and children under imminent threat of sexual violence to safety; and prosecuting persons responsible for sexual violence. UN Security Council Resolution 1820 on Women, Peace and Security, 2008.

[210] The resolution calls on states to take appropriate measures to protect women and children from all forms of sexual violence, reflecting many of the recommendations of earlier UN Security Council Resolutions on this issue, and further urges states to ensure "that all reports of sexual violence committed by civilians or by military personnel are thoroughly investigated and the alleged perpetrators brought to justice, and that civilian superiors and military commanders, in accordance with international humanitarian law, use their authority and powers to prevent sexual violence, including by combating impunity" and to increase "access to health care, psychosocial support, legal assistance and socioeconomic reintegration services for victims of sexual violence." UN Security Council Resolution 1888 on Women, Peace and Security, 2009.

Recommendations

To AMISOM Troop-Contributing Countries (Uganda, Burundi, Ethiopia, Kenya, Djibouti, and Sierra Leone) and Police Contingents

- Immediately investigate, take disciplinary action, and appropriately prosecute serious misconduct including sexual exploitation and abuse;
- Ensure that an adequate number of military police, independent civilian investigators, and legal officers are deployed to Somalia to conduct prompt, credible, and impartial investigations as warranted;
- Nominate a military prosecutor with experience in investigating sexual abuse and exploitation, including cases involving children, who can be promptly deployed to Somalia to participate in investigations into allegations of sexual exploitation and abuse;
- Ensure that all members of investigative teams, including interpreters and prosecutorial and judicial personnel, are appropriately vetted and trained in working with survivors of sexual exploitation and abuse, including children;
- Hold on-site courts martial in Somalia, either by deploying a permanent court martial to areas of operation or by sending courts martial to Somalia on a regular basis;
- Ensure that victims and their families are updated about progress of their court case and provide a dedicated case worker whom they can contact;
- Take adequate protection measures, in collaboration with AMISOM and the UN, before, during, and after the trial for all victims whose physical safety cannot be adequately ensured. Measures taken should help to ensure confidentiality. This should include, but not be limited to, relocation measures, preferably within Somalia. Strengthen *in camera* proceedings by concealing the victim's identity except as required to ensure due process, and withholding the name of the victim in the judgment, which should be made public;
- Contingent and battalion commanders should regularly emphasize training on sexual exploitation and abuse and provide appropriate briefings to troops on the content of the AUC Code of Conduct among troops, to ensure that all soldiers fully

understand the content and that they all have the code of conduct in card form in their national language;

- Evaluate managers and commanders' efforts to implement measures to prevent and eliminate sexual exploitation and abuse;
- Carry out a thorough background check of all individuals deployed to Somalia to ensure that those implicated in serious violations of international humanitarian or human rights law, including sexual violence, are under investigation, have pending charges, or have been subjected to disciplinary measures or criminal conviction for such abuses, are excluded;
- Take proactive measures to ensure a significant increase in the number of women within the military, military police, police, and civilian personnel deployed to Somalia.

To the African Union Mission in Somalia (AMISOM)

- Vet all senior military, police, and civilian officials deployed to AMISOM and ensure that individuals who have been found to have committed sexual exploitation, are under investigation, have pending charges, or have been subjected to disciplinary measures or criminal conviction for such abuses, are not deployed to AMISOM, in addition to any vetting carried out by troop-contributing countries;
- Continue to proactively disseminate the AUC Code of Conduct in card form to all contingents, in the language of each contingent; ensure that sufficient time and resources are granted to raise awareness of the responsibilities that the AUC Code of Conduct entails;
- Regularly call on contingent commanders from troop-contributing countries to report back on investigations and outcomes of investigations into abuses including sexual exploitation and abuse;
- Increase surveillance, including military police patrols, at isolated areas on the bases where abuses are alleged to have occurred or are likely to occur to prevent sexual exploitation and abuse;
- Systematically share all board of inquiry reports with relevant troop-contributing countries, the Special Representative of the Chairperson of the African Union Commission for Somalia (SRCC), the UN Somalia Assistance Mission (UNSOM)

Human Rights Unit, and the AU, with particular attention being paid to boards of inquiry established to look into incidents involving allegations of abuses against civilians;

- Report directly to the AU Peace and Security Council and AUC as well as the UN Security Council on complaints of sexual exploitation and abuse, including on the outcomes of investigations, disciplinary measures, or prosecutions as stipulated in the AUC Code of Conduct;
- Call on all troop-contributing countries and the AMISOM Force Command to cooperate with the UNSOM Human Rights Unit to ensure compliance with the secretary-general's Human Rights Due Diligence Policy;
- Ensure that gender focal points within contingents are appropriately trained in working with survivors of sexual exploitation and abuse, including children;
- Develop a public information strategy, along with Somali women's rights groups and the UN, to inform the public about complaints mechanisms and follow-up procedures;
- Work closely with the UN to ensure effective, safe, and confidential referrals of complaints and allegations involving AMISOM personnel, deposited with the UN;
- Map, in collaboration with the UN, services and assistance available to victims of sexual abuse and exploitation;
- Provide, in collaboration with the UN, adequate medical care and psychosocial support to complainants, victims, and witnesses of sexual abuse and exploitation by AMISOM personnel;
- Ensure, in collaboration with troop-contributing countries and the UN, that survivors of sexual violence receive appropriate protection during investigations and prosecutions;
- Inform the public about follow-up on specific cases, for example, by publicly reporting on a regular basis about any investigations that have been conducted and their outcome, without jeopardizing confidentiality and due process;
- Evaluate efforts of managers and commanders to implement measures to prevent and eliminate sexual exploitation and abuse;

- Ensure that the new posts of protection, human rights and gender officer and conduct and discipline unit staff are able to make tackling sexual and gender-based violence a priority; ensure that those recruited into these posts have experience working on sexual violence; these posts should report directly to the SRCC;

In addition, AMISOM should urgently finalize its draft *Policy on prevention and response to sexual exploitation and abuse* (PSEA policy) after reviewing and amending it to ensure that it serves as an effective prevention instrument. The final policy should:

- Include a definition in line with that spelled out in the UN secretary-general's 2003 *Bulletin on special measures for protection from sexual exploitation and sexual abuse* and in the MoUs signed between the AU and troop-contributing countries;
- Spell out in the policy that it covers all AMISOM personnel and its partners, including military, police, and civilians, in order to ensure no loopholes for certain categories of AMISOM staff;
- Make clear that retaliation against those who report incidents of sexual exploitation and abuse, whether victims, whistleblowers, or others, including Somali women's rights groups providing services to survivors of sexual violence, will be punished, including through possible legal action;
- Require that troop-contributing countries carry out a thorough background check of all individuals deployed to Somalia to ensure that those implicated in serious violations of international humanitarian and human rights law, including sexual violence, are excluded; and require that AMISOM vet all senior officials and managers for involvement in sexual exploitation and abuse, in addition to any vetting carried out by troop-contributing countries;
- Clearly spell out measures that will be made available to assist survivors of sexual exploitation and abuse, and children born from AMISOM troops;
- Ensure provisions for training on sexual exploitation and abuse prior to deployment, on arrival, and during the mission assignment;
- Amend the annexes of the policy to spell out clear and concrete investigative procedures including how investigators are appointed and timelines for the reporting procedure, and establish a data collection mechanism to collect and

track information on the number and type of allegations, investigations, and resolutions;

- Establish a confidential and accessible complaint mechanism, with UN assistance, so that all persons, including children, know how and where to go to make a complaint and receive assistance. A confidential and safe mechanism for lodging a complaint should be accessible to all staff, partners, and beneficiaries, irrespective of the individual's sex, age, physical or mental ability, language, level of literacy, ethnicity, or any other background characteristic, that allows them to make a complaint safely.

To the African Union Peace and Security Council

- Establish a permanent and adequately resourced independent investigative body, staffed by professional and independent investigators, to investigate allegations of misconduct and abuses, including sexual exploitation and abuse, in all AU peace support operations; this investigative body should conduct investigations with due respect to key principles including, but not limited to: confidentiality, safety, impartiality, objectivity, thoroughness, timeliness, and accuracy as well as safeguarding the due process rights of the alleged perpetrator; the body should investigate abuses by military, police, and civilian personnel;
- In cooperation with peace support operations, including AMISOM, protect and assist victims and witnesses of abuses by AU forces. All individuals concerned, including the subject of the complaint, have the right to be treated with respect and dignity and to be kept informed of the progress of the investigation and prosecution.

To the African Union Commission

- Support efforts by troop-contributing countries to hold on-site courts martial in Somalia, in line with commitments by the AU spelled out in the MoUs signed with countries to support investigations by national contingents;
- Ensure team members documenting sexual exploitation and abuse, including interpreters, are appropriately vetted, independent, and trained in documenting and investigating such violations, including those involving children;

- Ensure that once teams are deployed to peace support operations they receive the necessary logistical, political, and financial support to carry out their work;
- Promptly set up a fund to financially support survivors of sexual exploitation and abuse by AU peace support operations as well as children fathered by peace support operation soldiers. Financial penalties imposed on soldiers found to have perpetrated abuse could help to provide resources to this fund;
- Compile and publicly release an annual report on investigations into sexual exploitation and related offenses and relevant actions taken by AU peace support operations, including AMISOM, and the AU more generally, to address the violations;
- Amend the Framework of Cooperation Concerning the Prevention and Response to Conflict-related Sexual Violence in Africa to include specific language on sexual exploitation and abuse.

To the African Union Peace Support Operations Division

- Ensure that all troop-contributing countries carry out a thorough background check of all individuals deployed to peace support operations to ensure that those implicated in serious violations of international humanitarian and human rights law, including sexual violence, are under investigation, have pending charges, or have been subjected to disciplinary measures or criminal conviction for such abuses, are excluded; and require that peace support operations vet all senior officials and managers for involvement in sexual exploitation and abuse;
- Repatriate all military and police personnel subjected to disciplinary measures or criminal punishment for sexual exploitation and abuse and ban them from future peace support operations;
- Refrain from accepting troop contingents from countries that are unwilling or unable to investigate and prosecute soldiers alleged to have committed sexual exploitation and abuse;
- Cooperate with the new independent investigative body mentioned above when it carries out preliminary fact-finding investigations into cases of alleged serious misconduct;

- Ensure that gender focal points within contingents are appropriately vetted and trained in working with survivors of sexual exploitation and abuse, including children;
- Promptly establish a professional and permanent conduct and discipline unit for AMISOM, and other peace support operations, to formulate policies and carry out appropriate training of all AMISOM staff, and to refer misconduct allegations to the appropriate investigative authorities;
- Develop a centralized and electronic database with records on all AU peacekeepers that includes information about credible complaints, disciplinary notices, ongoing investigations, and prosecutions on sexual exploitation and abuse to prevent redeployment to other missions and disseminate this throughout all AU peace support operations;
- Request that all troop-contributing countries to AU peace support operations proactively seek to increase female representation within the military, police, and civilian personnel;
- Support efforts by troop-contributing countries to develop country-specific training frameworks on sexual exploitation and abuse that resonate with national contingents;
- Equip all peace support operations with DNA tests and other tests to ensure that, when appropriate, peace support operation soldiers provide child support to children they father while on mission.

To AMISOM Donors including the UN, EU, UK, and US

- Promote a "zero tolerance" policy against sexual exploitation and abuse, including among all non-national security forces receiving support; any such support should not facilitate violations of international human rights and humanitarian law;
- Monitor AMISOM's compliance with international humanitarian and human rights law;
- If there are substantial grounds to believe that personnel of peace support operations forces are committing serious violations of international human rights or humanitarian law, including sexual exploitation and abuse, and where the relevant authorities have failed to take the necessary corrective or mitigating

measures, raise public concern and urge the AU and the troop-contributing country to carry out immediate investigations;

- If substantial allegations are not adequately addressed, consider ending military assistance to AU peace support operations forces, including AMISOM. No assistance should be provided to any unit implicated in abuses for which no appropriate disciplinary action has been taken;
- Obtain regular feedback from AMISOM and troop-contributing countries on measures taken to implement AMISOM's *Policy on prevention and response to sexual exploitation and abuse*, as well as specific information on investigations into allegations of sexual exploitation and abuse and their outcomes;
- Fund pre-deployment and follow-up on the ground trainings on sexual exploitation and abuse and help to ensure that troop-contributing countries' legal advisors and gender advisors are deployed at all levels of national contingents;
- Support efforts by the AU to establish a professional and permanent conduct and discipline unit for AMISOM, and other peace support operations; call on the UN to provide technical assistance in this endeavor, as requested under Security Council Resolution 2124;
- Support the UNSOM Human Rights Unit so that it has the capacity to implement the secretary-general's Human Rights Due Diligence Policy;
- Urge the Somali government and AMISOM to ensure that victims or whistleblowers, or those providing assistance to them, who file a complaint of sexual abuse and exploitation will not face reprisals; strongly and publicly condemn any such reprisals;
- Support both AMISOM and the UN in developing confidential, safe, and appropriate complaints mechanisms and in carrying out activities aimed at reaching out to, supporting, and protecting survivors of sexual exploitation and abuse and ensuring appropriate referrals;
- Support local women's rights groups providing services to victims of sexual violence, and help build their capacity to provide medical and psychosocial support, inform women and girls of their rights, develop public information campaigns on sexual exploitation and abuse that resonate with the local population, and offer support to survivors who deposit complaints; provide

technical expertise and other support to these groups to minimize the risks they may face as a result of this work;

- Ensure that any further UN Security Council resolutions that authorize AMISOM's continued mandate in Somalia include provisions on sexual exploitation and abuse, including:
    - Requesting that AMISOM ensure full compliance with the United Nations "zero tolerance" policy on sexual exploitation and abuse and keep the secretary-general fully informed about AMISOM's progress in this regard;
    - Urging troop-contributing countries to AMISOM to take appropriate preventive action including pre-deployment awareness training, and to ensure full accountability in cases of such conduct involving their personnel.

To the Government of Somalia

- Support income-generating activities for women and girls in the large IDP settlements and ensure that government plans for the displaced population of Mogadishu do not negatively impact on women and girls' access to livelihoods;
- Support programs that assist female survivors of sexual and gender-based violence in rebuilding their lives by assisting them in seeking housing, jobs, vocational training, or school enrollment;
- Ensure that victims or whistleblowers, or those providing assistance to them, who file a complaint of sexual abuse and exploitation, will not face reprisals;
- Repeal article 445 of Somalia's penal code that criminalizes "whoever practices prostitution" to allow women who engage in transactional sex to report abuse and exploitation without fear of criminal sanction;
- Train female community leaders at IDP camps to serve as focal points for dealing with sexual exploitation and abuse within the community to improve communities' ability to be more vigilant and report abuse to appropriate actors;
- Ensure that health and social services provide adequate physical, psychological, social, economic, and medical support to women and girls recovering from abuse and exploitation; develop confidential referral systems and health posts in high-

risk areas, such as large or isolated IDP camps, that can facilitate referrals and access to emergency treatment for women;

- Ensure, with the help of the UN, that all hospitals in Mogadishu and surrounding areas are equipped with medical supplies to treat post-rape care in accordance with World Health Organization (WHO) standards and ensure that all facilities have procedures in place to respond to sexual violence, including Post-Exposure Prophylaxis (PEP) kits. All services should have trained staff to deliver confidential and comprehensive medical treatment and psychosocial support. If and when services are not available, then facilities should have adequate referral systems to ensure survivors can access confidential care.

To the UN Country Team (UNCT) and United Nations Assistance Mission in Somalia (UNSOM)

- Ensure that the UN protection from sexual exploitation and abuse focal points' network is reinforced and able to provide clear, accessible, and confidential complaints mechanisms to survivors of sexual exploitation and abuse by AMISOM personnel.

To the UNSOM Human Rights Section

- Include investigations and monitoring of human rights abuses by AMISOM personnel in all public reporting on the human rights situation in Somalia;
- Ensure strict adherence to the secretary-general's Human Rights Due Diligence Policy including through the identification of precise mitigation measures to end sexual exploitation and abuse along the lines of those outlined in the recommendations above; ensure strict compliance by AMISOM and provide follow-up on the implementation of the measures.

Acknowledgments

Laetitia Bader, researcher for the Africa division, and Samer Muscati, emergencies researcher for the Women's Rights division, authored this report based on research conducted with Tirana Hassan, senior researcher in the Emergencies division, and a consultant.

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The report was reviewed by Liesl Gerntholtz, women's rights director; Maria Burnett, senior researcher for the Africa division; Leslie Lefkow, deputy director for Africa; Juliane Kippenberg, senior researcher on children's rights; James Ross, legal and policy director; and Tom Porteous, deputy program director. Annerieke Smaak and Alexandra Kotowski, associates for the Women's Rights Division, assisted with proofreading, footnoting, and formatting. Layout and production were coordinated by Grace Choi, publications director, and Fitzroy Hepkins, administrative manager.

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Human Rights Watch would like to express our deep appreciation to all the women and girls who came forward to speak with us for this report.

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Annex 1:

Human Rights Watch Letter to the then Special Representative of the Chairperson of the African Union Commission for Somalia (SRCC), Ambassador Mahamat Saleh Annadif

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Fareda Banda
Innocent Chukwuma
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Dinah PoKempner, *General Counsel*
James Ross, *Legal & Policy Director*
Hassan Elmasry, *Co-Chair*
Joel Motley, *Co-Chair*

Similar letters with queries and preliminary findings were also sent to the force commander of the African Union Mission in Somalia, the African Union's special envoy for women, peace and security, the chief of staff of the Burundian National Defense Forces (BNDF) and the chief of Defence Forces for the Ugandan People's Defence Forces (UPDF).

May 14, 2014

Ambassador Mahamat Saleh Annadif
Special Representative of the Chairperson of the African Union Commission for Somalia (SRCC)

Via email to [redacted] *and*
[redacted]

Dear Ambassador Mahamat Saleh Annadif,

I am writing to share with you the preliminary findings of research carried out by Human Rights Watch into alleged sexual abuse and exploitation (SEA) by members of the African Union Mission in Somalia (AMISOM).

Human Rights Watch is an international human rights organization that conducts research and advocacy on human rights abuses in over 90 countries worldwide. Human Rights Watch has long documented violations of human rights and international humanitarian law by all parties to the conflict in Somalia.

Human Rights Watch is committed to producing material that is well-informed and objective. We want to ensure that our report properly reflects the views, policies, and practices of relevant authorities and actors. We hope you or your staff will respond to the questions below so that your views are accurately reflected in our reporting.

While commending AMISOM's *Policy on Prevention and Response to Sexual Exploitation and Abuse* ("AMISOM PSEA policy"), we believe that the policy needs to be significantly reviewed and strengthened. Notably, the policy lacks any definition of the abuses in question, which undermines reporting and investigations, as well as the lack of concrete measures stipulated in the policy to ensure its implementation. We would be happy to share with you a more in-depth assessment of the policy, and will also be including this assessment in our final report.

Research Findings:

Our research examines alleged sexual exploitation and abuse by AMISOM forces since 2013, most of which occurred on the Ugandan and Burundi contingent bases in Mogadishu. We interviewed 21 survivors of sexual exploitation and abuse, and 24 other witnesses, international actors as well as officials of the military courts, and other military personnel in Uganda and Burundi. Interviews with survivors were conducted on an individual basis, and no remuneration was provided to the interviewees.

Our research uncovered cases of rape, exploitation, and other forms of abuse. Several cases of rape or attempted rape were against children.

We are particularly concerned that a significant number of the abuses occurred when the individuals initially came to the bases looking for medical assistance.

The UN Secretary-General's 2003 Bulletin on protection from sexual exploitation and abuse states that exploitation involves situations where women and girls are vulnerable and a differential power relationship exists. Exploitation is "any actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another."

Human Rights Watch identified a relatively organized system of sexual exploitation in both the Ugandan and Burundian base camps in Mogadishu where most of the women we interviewed who were involved in sex-for-money schemes were internally displaced women and girls, who are particularly vulnerable. Given this vulnerability and the clear power relationship between them and the soldiers, the soldiers' conduct was "sexually exploitative."

Women and girls who endure these abuses, particularly women who had sex for money, are reluctant to speak out or file a complaint. The women and girls feared retaliation and lacked confidence that their complaint would be investigated. This highlights the need for all parties, notably AMISOM, to ensure that proactive and safe measures are taken to facilitate survivors coming forward and reporting. Such measures will be crucial to tackling the problem.

Inquiries:

Human Rights Watch would appreciate your response to the concerns described above and to the following questions in order to reflect your views in our reporting. We would appreciate receiving your response to this letter by June 3, 2014, in order to ensure that it can be reflected in our final report.

Prevention

1. Please provide us with information on the concrete steps taken by your office to ensure the implementation of the AMISOM *Policy on Prevention and Response to Sexual Exploitation and Abuse*;
2. What is the role of the Gender Advisor in the implementation of the "AMISOM PSEA policy"?
3. Pre-deployment training on SEA is included under the "AMISOM PSEA policy". Have these trainings started? Who is responsible for carrying out the trainings? Please provide us with the curricula of this training as well as how many soldiers, including rank, have been trained?
4. In addition to pre-deployment training, is any other training in respect of SEA taking place during deployment?

Complaints, investigations and accountability

1. What mechanisms does AMISOM make available to survivors of SEA by alleged AMISOM soldiers enabling them to bring a complaint in a safe, accessible, and confidential manner?
2. What mechanisms are in place to protect individuals, including whistle-blowers as well as victims, who report cases from reprisals? What, if any processes, have been set up to protect the identity of those reporting?
3. Please provide us with any information regarding the number of allegations of SEA recorded since 2013 and the number of individual soldiers that have been investigated. How many individual soldiers have been suspended from duty, repatriated or prosecuted in this period following investigations? Please also provide specific information on the location of the reported incidents and nationality of the forces involved.
4. Is there a functioning database collection system that collects and tracks information on the number and type of allegations of SEA, investigations, and resolutions?

Dissemination and oversight

1. What measures is AMISOM taking to ensure that individual Troop Contributing Countries share information regarding allegations and investigations of SEA with AMISOM headquarters?
2. Is AMISOM planning to report on the implementation of its PSEA policy to the AU Peace and Security Council?
3. How is AMISOM disseminating information among relevant communities regarding measures it is taking to tackle SEA and outcomes of any possible investigations?
4. What public outreach activities, if any, are AMISOM undertaking to inform women and girls about the policy and encouraging them to report abuses?

Compensation

1. What steps are being taken to provide post-rape care to survivors who do report, including emergency contraceptives, post-exposure prophylaxis (PEP) for HIV and other sexually transmitted infections, and treatment for injuries?

2. What compensation is being made available to survivors of SEA?
3. What monetary support and other assistance, if any, is being provided to children born as a result of AMISOM soldiers' sexual exploitation and abuse? Does AMISOM have a designated focal point responsible for this? What is AMISOM doing to address the lack of such support in the "AMISOM PSEA policy"?

As noted, we would appreciate receiving your response to this letter by June 3, 2014. Please do not hesitate to send us any other materials or information that you think would be relevant for our understanding of these issues.

Furthermore, we would greatly appreciate the opportunity to meet with you in person in Nairobi to discuss this research. Please contact Laetitia Bader, our Somalia researcher, for a time at your convenience to meet with us, at baderl@hrw.org or +254 700 241 854.

Yours Sincerely,

Daniel Bekele
Africa Director

CC:
Mr. Abdul Diabagate, AMISOM Senior Humanitarian Affairs Officer,
[redacted]
Miss Mané Ahmed, AMISOM Gender Officer, [redacted]

Annex 2:

Response of the Chief of Staff of the Burundian National Defense Forces, Général Prime Niyongabo, to Human Rights Watch's Letter

REPUBLIQUE DU BURUNDI

Bujumbura, le 14 Juin 2014

FORCE DE DEFENSE NATIONALE
ETAT-MAJOR GENERAL

N° 1755 /01.22.0

A Monsieur Daniel Bekele

Directeur de la Division Afrique
de HUMAN RIGHTS WATCH
à
New York

Objet : Avis sur les Allégations d'actes d'exploitation et d'abus sexuels présumés commis par les membres de la mission AMISOM.

Monsieur le Directeur,

J'ai l'honneur de me référer à votre correspondance datée le 03 Juin 2014 pour vous fournir la position du Commandement de la Force de Défense Nationale vis-à-vis des Allégations formulées par l'organisation que vous représentez.

En effet, Monsieur le Directeur, le Commandement de la Force de Défense Nationale n'a jusqu' à maintenant enregistré aucune plainte de la part des citoyens somaliens concernant les actes d'exploitation, de viol ou d'abus sexuels qui seraient perpétrés par nos militaires déployés au sein de la mission AMISOM depuis leur arrivée en Somalie.

Toute fois, si de tels actes viendraient à être suffisamment documentés par votre ou une autre organisation et adressés à la FDN ou au Contingent Burundais de l'AMISOM, le Commandement n'hésiterait pas à prendre toutes les dispositions nécessaires visant la poursuite pénale du coupable et le rétablissement de la victime dans ses droits.

Etant suffisamment informé de la signification des abus, viols et exploitation sexuelle telle que précitée dans le Bulletin de 2003 du Secrétaire Général de l'ONU et soutenant totalement ce principe, voici en quelques lignes la réponse reflétant notre position et orientée vers les 12 questions que vous nous avez posées:

1

Prévention

1. Tous les militaires en pré-déploiement pour l'AMISOM (toutes catégories confondues) doivent obligatoirement suivre une formation spécifique d'au moins 03 mois dans les matières orientées vers les opérations de la paix.

   Des matières se rapportant aux droits de l'homme en général et particulièrement le DIH y sont dispensées. Toutes ces matières interdisent formellement et suffisamment les AES sous toutes leurs formes ou leurs appellations.

   Par ailleurs, une formation en éthique militaire est dispensée à tous les militaires (toutes catégories confondues) dans tous les centres de formation de la FDN, y compris tous les militaires en formation de pré-déploiement pour les missions de soutien à la paix.

   De plus, depuis Octobre 2011, une formation des PAIRS EDUCATEURS en lutte contre les AES a commencé et plus de 620 Officiers de la FDN (de Colonel au Sous-lieutenant) ont déjà bénéficié de cette formation. Les responsables de cette dernière sont respectivement la FDN via le Bureau des Operations de Maintien de la Paix et l'UNSOA qui sponsorise et fournit les Experts.

2. Référez-vous à la réponse précédente. Pour complément, il sied de rappeler que les militaires sont soumis aux diverses lois de la République du BURUNDI qui prévoient et répriment très sévèrement les infractions d'AES sous toutes leurs multiples formes ou leurs appellations. Le code pénal burundais en est une illustration très éloquente à cet effet.

3. Les hauts responsables déployés à l'AMISOM sont sélectionnés suivant des procédures tellement strictes qu'il ne peut pas y avoir parmi eux un criminel ni un soupçonné criminel.

   Un militaire reconnu coupable d'AES, eu égard aux statuts des différents personnels de la FDN, et du code pénal burundais, est automatiquement renvoyé de la FDN ; donc il ne peut, en aucun cas, être candidat au déploiement dans l'AMISOM ou dans toute autre mission de maintien de la Paix.

Plaintes, enquêtes et lutte contre l'impunité

4. Les bases du Contingent burundais sont aménagées de sorte que les militaires burundais ne puissent pas accéder au milieu extérieur et les populations somaliennes ne puissent pas s'introduire à l'intérieur si ce n'est que pour des raisons expressément connues par le commandement du Contingent burundais et par les autorités somaliennes. La moindre tentative de dépasser la barrière, de la part de nos éléments est sévèrement sanctionnée.

   D'autre part, une cellule de Coopération Civilo-Militaire, de conseillers juridiques et celle de la recherche du renseignement sont attachées à l'Etat-Major du

Contingent burundais pour enquêter entre autres sur de pareils délits. Elles coopèrent étroitement avec l'administration locale et la communauté pour déceler toute violation en parfaite discrétion. Les conseillers juridiques auraient à mener des investigations poussées en cas de dénonciation.

5. Entre autre mécanisme de protection contre les représailles en cas de dénonciation d'AES, le présumé est détenu au Camp pendant les enquêtes et la constitution de son dossier puis rapatrié immédiatement dès la confirmation de tout acte d'indiscipline.

6. A notre connaissance, aucun acte d'AES n'a été commis à l'endroit d'une somalienne durant l'année 2013. Le Commandement du contingent est instruit de dénoncer, punir sévèrement toute violation de droits de l'homme qui serait commis par nos militaires.

Par ailleurs, les relations étroites liant le contingent burundais et l'administration à tous les niveaux, l'entraide et la collaboration au niveau de la sécurité, de la protection des droits de l'homme, l'échange de renseignements, etc. caractérisent la bonne cohabitation entre le Contingent burundais et l'administration somalienne, les organisations de défense des droits humains, y compris les différentes associations de femmes. Nous profitons d'ailleurs de l'occasion pour lancer un appel à quiconque aurait des informations sur une quelconque violation de droits de l'homme, ou d'un acte d'AES commis par un de nos militaires de l'AMISOM, de le dénoncer au Commandement du Contingent burundais de l'AMISOM ou au Commandement de la FDN pour que des mesures très sévères soient prises à son endroit. Le rapatriement, des sanctions disciplinaires allant au renvoi de la FDN, des poursuites judicaires conformément aux lois de fond et de procédure en vigueur au BURUNDI sont des mesures que le Commandement de la FDN a déjà prises contre les militaires qui commettent des fautes contre la discipline militaire lors des missions de maintien de la paix.

Diffusion d'informations et supervision

7. Le mémorandum d'entente entre l'UA et le Gouvernement du Burundi sur l'AMISOM est clair en matière d'information sur les mesures prises en cas d'infractions commises par un militaire burundais de l'AMISOM à l'égard d'un ressortissant somalien. L'UA doit être tenue informée des mesures prises via le Ministère des Relations Extérieures du BURUNDI, qui à son tour informe le Gouvernement Fédéral Somalien.

8. Nous référant au point 05, il n'y a pas lieu de parler de compensation ou de soins post viol du moment qu'aucune violation n'a été commise jusqu'ici par un membre du contingent burundais de l'AMISOM, mais tout est effectivement prévu par l'arsenal juridique burundais, pour que la victime rentre dans ses droits, y compris même l'enfant qui naîtrait suite à un AES.

9. Le Contingent burundais de l'AMISOM diffuse toute information nécessaire par le biais des cellules de coopération civilo-militaire et pendant les rencontres de sécurité avec les organes habilités du pays hôte.

Compensation (aucun cas).

10. Referez-vous au point No 8 de la présente.

Copie pour Information à :
-Excellence Monsieur le Ministre De la Défense Nationale et des Anciens Combattants

A

BUJUMBURA

Le Chef d'Etat-Major Général de la Force de Défense Nationale.

Prime NIYONGABO
Général-Major

4

Annex 3:
Response from Ambassador Mahamat Saleh Annadif's to Human Rights Watch's Letter

AFRICAN UNION | UNION AFRICAINE

الاتحاد الأفريقي | UNIÃO AFRICANA

Ref.: AMISOM/HOM/14/325.14

Mr. Daniel Bekele
Africa Director
Human Rights Watch

Dear Mr. Daniel Bekele,

INVESTIGATION INTO ALLEGATIONS OF SEXUAL EXPLOITATION AND ABUSE IN AMISOM

I write further to your letter dated 14 May 2014 in which you shared with me some preliminary findings of the research your organization conducted regarding allegations of Sexual Exploitation and Abuse (SEA) against unspecified AMISOM personnel in Somalia.

AMISOM is a mission that is mandated by both the African Union and the United Nations to deplete the capacity and capability of the terrorist group, Al-Shabab (AS) to carry out insurgency and asymmetric attacks in Somalia. In discharging this onerous mandate, AMISOM not only places reliance on military offensive but also seeks to win the hearts and minds of the Somali people. Central to winning the hearts and minds of the Somalis is the need for AMISOM personnel to conduct their activities in ways and manners that are consistent with the best international practice and complies with the provisions of International Humanitarian Law (IHL); International Human Rights Law (IHRL) and International Refugee Law (IRL). It is the official position of the African Union that conducting our activities in this manner is a condition precedent for winning the hearts and minds of the Somalis. In practical terms therefore, AMISOM has designed a number of policies and guidance which are formulated to ensure that incidents of SEA are reduced to barest minimum and which contain mitigating measures to deal with such incidents whenever they occur.

It is from the above perspective that we welcome the searchlight your organization (and similar ones) are beaming on the activities of AMISOM. AMISOM is a relatively young organization and such input from your organization can only lead to AMISOM designing new and strengthening existing mechanism to make them more robust and fit for purpose. I am also pleased that you are not unmindful of AMISOM's Policy on Prevention and Response to Sexual Exploitation and Abuse and I

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assure you that this is a live document which will be subjected to fine-tuning as the occasions demand.

In order for you to have a complete overview of the AU and AMISOM's policies and procedures regarding SEA, Gender Based Violence and similar matters, please find together with this letter a document titled: 'Information on AUC and AMISOM on SEA'. This document also contained my responses to the individual questions raised in your letter of 14 May 2014.

I am concerned that your research uncovered a 'relatively organized system of sexual exploitation in both the Ugandan and Burundian camps in Mogadishu'. I do not have the full details of your investigation and cannot make informed comments on the specificities of these allegations until perhaps you provide us with more details of the allegations. However I fully accept that if the contents of your investigation are true, the mission will need to double its efforts, particularly it's preventive, mitigating and compensation mechanism.

In order to maximize the effectiveness of our Policy on Prevention and Response to Sexual Exploitation and Abuse AMISOM is taking a number of steps to augment our existing personnel and procedures. Towards this end we are in the process of appointing two Conduct and Disciplinary Officers and a Women Protection Officer. The arrival of these officers will greatly strengthen our ability to track, intervene and mitigate on allegations of SEA. We are also in discussion with the UNSOM Human Rights office to design a more robust and confidential reporting mechanism on SEA.

AMISOM is committed to addressing these issues despite the many multi-faceted challenges it faces; we recognize these issues and appreciate that they need to be mitigated and reinforced and not undermined. We seek your understanding and collaboration on issues pertaining to human rights and possible abuses in Somalia and we shall treat with utmost urgency any proof of abuse that comes to our attention.

Please accept the assurances of our highest consideration.

Yours Sincerely,

Amb. Mahamat Saleh Annadif
Special Representative of the Chairperson of the African Union Commission for Somalia and Head of Mission AMISOM

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Tuesday, June 03, 2014

Information on AUC and the African Union Mission In Somalia (AMISOM) on SEA[1]

A) Introduction:

This brief paper provides an overview of the AUC's approach and responses to the issue of sexual exploitation and abuse (SEA). The overall approach is rooted in its Constitutive Act and various other protocols and decisions of the AU Heads of States which highlight the promotion of gender and safeguarding of women's rights. On this basis, the AU has instituted a number of institutional mechanisms to realize its commitments on gender, including the establishment of a Gender Directorate and development of an overall gender policy to provide a framework for the AUC's work in this arena. The Gender Directorate has worked closely with the Peace and Support Department (PSD) to ensure that the work of the Department, especially of the Peace Support and Operations Divisions (PSOD) and Peace and Support Operations (PSOs) consider and integrate the specific issues of women in peace and conflict contexts, particularly around its three thematic areas of: 1) prevention of gender-based violence(GBV), 2) effective participation in peace processes and conflict resolution and 3) protection of women in conflict areas.

This paper provides a brief overview of the AUC's policies and initiatives in reference to gender and women empowerment in order to contextualize the AUC's approach to SEA in PSOs and AMISOM in particular. It describes the initiatives currently in place as well as planned initiatives in AMISOM and also briefly discusses some of the bottlenecks in its works. It responds to the specific inquiries raised in the letter and provides an overall indication of how the AUC and AMISOM intend to use the information and findings of the report. It notes that it would have been more useful had the draft report been shared with AMISOM but nevertheless welcomes the spotlight on the matter as this will no doubt, strengthen its efforts of identifying and ensuring that proper measures are taken against personnel who act contrary to its rules and regulations.

B) AUC's overall response to Gender, Gender-Based Violence (GBV) and Sexual Exploitation and Abuse (SEA)

The African Union (AU) has prioritized gender equality, women empowerment and combating GBV, including SEA in the African Union Commission (AUC) and in its Peace Support Operations (PSOs). This commitment is enshrined in its Constitutive Act: Article 4(l) which indicates the goal of "promotion of gender equality," amongst the core principles of the African Union. This goal is further reinforced by the Protocol of the African Charter on Human and Peoples' Rights on the Rights of Women in Africa and the Solemn Declaration on Gender Equality in Africa.

[1] This paper is prepared in response to a request from Human Rights Watch for information on AMISOM's efforts against SEA contained in a letter addressed to Ambassador Mahamat Saleh Annadif, Special Representative of the Chairperson of the Commission (SRCC), dated May 14, 2014. (See attached letter.)

The AU Heads of State and Government Summits continue to champion gender equality and empowerment through their subsequent decisions aimed at accelerating the implementation of their own commitments including the Millennium Development Goals (MDGs) on gender and in particular MDG Goal 3 on Promoting Gender Equality and Empowerment of Women.

To this end, a Gender Directorate was established in the African Union Commission (AUC)'s Chairperson's Office to lead its efforts on gender equality and women empowerment. The Directorate has developed a policy and plan for ensuring that gender is central to the work of the AU, including in its peace support operations (PSOs) and has embraced a philosophy of concrete action, as evidenced by its mantra of "Walk the talk."

The Gender Directorate has undertaken numerous initiatives to empower women in African at the community, national, regional, and continental level through various initiatives. In addition, the Directorate provides guidance and ensures coordination of the work of the AU departments on all gender-related matters. Notably, a major achievement of the Directorate in relation to the AUC's PSOs is the development of a Gender Training Manual For African Peacekeepers, that includes topics on sexual and gender based violence in armed conflict, special needs of women and children in conflict and post conflict situations, human rights based approach in peacekeeping, sexual harassment, codes of conduct, and child protection.

Most recently, due to the commitment and the identified need to empower the voices and actions of women in conflict areas, AU recently appointed a Special Envoy for Women, Peace and Security, Madame Bineta Diop. Mme. Diop assumed her role and is leading advocacy efforts on the AU's agenda on Women Peace and Security: from the Women in South Sudan to women in the Central Africa Republic and Somalia as well as the 200 girls who were abducted in Nigeria, Mme. Diop advocates and adds her voice to support prevention, promotion, and participation of women in peace efforts.

Notably also, since the establishment of the PSC, in 2002, the AUC has taken on a more proactive and determining role in conflicts in the region. Currently, the AUC has three (3) active PSOs, AMISOM, MISCA, and support to the Lord Resistance Army Regional Task Force. One of the major complex and challenging issues that the PSOs, particularly AMISOM have is grappling with how to protect and prevent violence against women, children, and girls in conflict in the context of the most intractable and complex conflict areas worldwide where one is simultaneously addressing, security, political, humanitarian, cultural, and religious imperatives. This is in addition to resource constraints and personnel challenges in Somalia.

Accordingly, on this basis, the AUC, PSC has employed a multi-faceted response to strengthen its efforts to promote women, prevent and protect women from violence and also promote their participation in peace processes, including:

1) the appointment of a special envoy for Women Peace and Security to spearhead advocacy efforts and support the work of the AUC in this regard;
2) the establishment of gender units in missions (This is the case with AMISOM);
3) The engagement of women and children protection officers in PSOs; and

4) Most recently, the development of a capacity to address misconduct through the engagement of a Conduct and Discipline Advisor (CDA) at PSOD. Moreover, dedicated Conduct and Discipline Officers are in the process of being recruited in AMISOM.

In addition, a number of initiatives are underway to promote the observance of international humanitarian law, including a draft Protection of Civilians Policy.

Indeed, the issue of women and children's protection as well as participation in conflict resolution and peace building efforts is a large part of the AU's agenda and planned activities over the next three years. The Peace and Security Department (PSD) intends to expand its efforts to prevent and protect women and children from GBV and SEA while also promoting their effective participation in conflict resolution and peace building efforts. To this end, the PSC has in place a gender peace support program that will provide the necessary financial and technical support to the different divisions of the Peace and Security Department. Through this financial and technical assistance, the Program brought various AUC, AMISOM, and MISCA[2] officials and partners engaged in peace support work together in Ghana from 9th to 10th May to develop a plan with clear and verifiable deliverables for the AUC's work in this regard.

C) AUC and AMISOM's efforts to address gender issues and SEA in AMISOM

In AMISOM, one of the first offices to be established is the Gender Unit. The office has initiated several programs designed to empower women and protect women from violence, especially sexual exploitation and abuse. Specifically, the Office works very closely with the recently established Somali Ministry for Gender and Human Rights as well as the military, civilian and police components to sensitize them on standards of conduct and strengthen responses to gender-based violence. Notably, the Gender Unit was instrumental in reviewing the Somali Government Gender Policy and drafting its action plan. This is in keeping with the overall strategy of supporting and aligning with the national government priorities as per the internationally accepted principles on aid effectiveness, as elaborated upon in the Paris Declaration on Aid Effectiveness and the Accra Agenda for Action.

AMISOM also has a draft Policy on the Prevention SEA that it is implementing. In this regard, it has held numerous trainings and sensitizations programs on the Six Core Principles and the AU Code of Conduct. The Strategy is also used during Pre-Deployment Training and in-house sensitizations. The draft policy will be reviewed amongst other documents during a workshop planned for July 2014 to, *inter alia,* consider and validate an overall policy on conduct and discipline.

AMISOM also created an AMISOM Gender Mainstreaming Committee in order to better deal with the issue of under-reporting of SEA. It has put in place information sharing mechanism with women NGOs and the local population. It has also conducted SEA awareness among the local population on how to protect themselves and place complaints if SEA occurs.

[2] African Union Mission to the Central Africa Republic

D) Response to specific questions raised in the letter

Below is a table responding to the questions raised in the Human Rights Watch (HRW) report on SEA in AMISOM.

Questions	Responses
1. Please provide us with information on the concrete steps taken by your office to ensure the implementation of the AMISOM Policy on Prevention and Response to Sexual Exploitation and Abuse.	The following mechanisms are used to ensure implementation of the AMISOM Policy on SEA: Prevention measures: • Pre-deployment trainings for all AMISOM uniformed personnel before their deployment into the mission area. These trainings cover pertinent subjects of SEA, GBV, and Gender, duty to observe provisions of IHL, IHRL, and International Refugee Law etc. These trainings also include topics on AMISOM Military Rules of engagement and Police Guidelines on Use of Firearms as they relate to women, children and other vulnerable groups. These trainings are conducted in conjunction with the UN. • Release of Force Commander's Directive on Conduct of Military Actions. • In-mission refresher trainings covering the same subjects and/or recent developments on the same; • Outreach materials, sensitization activities and workshop; • Establishment of AMISOM Gender Mainstreaming Committee; • Establishment of Gender Focal Points in the various contingents Mitigation Measures: AMISOM recognizes that in a mission of its size, with close to 23000 personnel, it is inevitable that some personnel may violate its rules and regulations in this regard. Whenever this happens, the following are mechanism put in place to deal with such issues: Institution of Board of Inquiry (BOI). The BOI is set up from time to time to investigate allegations of infractions by AMISOM personnel against either fellow AMISOM personnel or third parties (mainly Somalis). • Contingent BOI: This is set up to investigate intra-AMISOM allegations; • Headquarter BOI: This is set up to investigate serious allegations against AMISOM personnel by Somalis. This will include allegations bordering on SEA and GBV. Disciplinary BOI. This is set up whenever there are allegations by AMISOM staff against another AMISOM staff. This mechanism is particularly useful in dealing with allegations of sexual harassment by Somalis who are employed by AMISOM and are AU staff.

2. What is the role of the Gender Advisor in the implementation of the "AMISOM PSEA Policy"?	The Gender Unit has a mandate that reflects the AU's commitment on the advancement of gender equality in the continent and address gender-related issues regarding the implementation of the AUC's Gender Policy as well as AMISOM's Policy on SEA. The Gender Unit currently has the responsibility for sensitization and awareness on gender-related conduct and discipline issues, including SEA especially in relation to preventative efforts involving outreach, sensitization, advocacy and training as well as receipt of complaints. It is expected that once the CDU becomes operational in AMISOM and the engagement of the Women Protection Officer, this responsibility will be shared, with both the CDU and the Women Protection Officer
3. Pre-deployment training on SEA is included under the "AMISOM PSEA policy". Have these trainings started? Who is responsible for carrying out the trainings? Please provide us with the curricula of this training as well as how many soldiers, including rank, have been trained?	All Pre-Deployment Trainings are mandatory for Police Contributing Countries (PCCs) as well as Troop Contributing Countries (TCCs). These training are jointly organized by UNSOA/AMISOM and subject matter experts from both organizations deliver the trainings. The trainings commenced in November 2011 and have been carried out in all TCC and PCCs.
4. In addition to pre-deployment training, is any other training in respect of SEA taking place during deployment?	In-houses trainings and refresher sessions are also held in .AMISOM
5. What mechanisms does AMISOM make available to survivors of SEA by alleged AMISOM soldiers enabling them to bring a complaint in a safe, accessible, and confidential manner?	This is an aspect where AMISOM recognizes the need to improve its efforts and intends to do much more. Nevertheless for now, the missions has appointed gender focal points trained on SEA; posters are printed with phone number/email; and regular radio programs are held to sensitize the local population on available mechanisms that are being strengthened.
6. What mechanisms are in place to protect individuals, including whistle-blowers as well as victims, who report cases from reprisals? What, if any processes, have been set up to protect the identity of those reporting?	A draft Whistleblower policy has been developed and will be reviewed during a validation workshop of the conduct and discipline policy scheduled for late June, early July 2014. Meanwhile, AMISOM's existing mechanisms ensure to the greatest extent possible that where and if allegations are made that the alleged victim is not threatened.

Page **5** of **10**

7. Please provide us with any information regarding the number of allegations of SEA recorded since 2013 and the number of individual soldiers that have been investigated. How many individual soldiers have been suspended from duty, repatriated or prosecuted in this period following investigations? Please also provide specific information on the location of the reported incidents and nationality of the forces involved.	Currently, we are aware of two cases In the interim, PSOD is working with all participating member states to not just compile statistics, but to implement a comprehensive approach to ensure accountability in the spirit of our collective responsibility.
8. Is there a functioning database collection system that collects and tracks information on the number and type of allegations of SEA, investigations, and resolutions?	Currently, a data base has not been established. However, there are plans to establish the same with assistance from the United Nations. Further, the Women and Child Protection Officer who is expected to join the mission in June will collate and provide reports on SEA allegations, pending the operationalization of the CDU.
9. What measures is AMISOM taking to ensure that individual Troop Contributing Countries (TCC) share information regarding allegations and investigations of SEA with AMISOM headquarters?	Contingents are obliged to provide information to the mission headquarters. Under AMISOM BOI regime, conclusion and finalization of all BOIs lie with the mission headquarters which forwards the same to PSOD.. Thus even where BoI is set up by contingents, they must forward their findings to the office of the SRCC. Follow-up with TCC is the responsibility of the AUC at the Headquarters. Recently, PSOD engaged a Conduct and Discipline Advisor who will be responsible for providing the necessary technical support for follow-up on allegations with TCC
10. Is AMISOM planning to report on the implementation of its PSEA policy to the AU Peace and Security Council?	Yes.
11. How is AMISOM disseminating information among relevant communities regarding measures it is	AMISOM has been using a range of avenues to communicate to communities its zero tolerance policy on SEA. So far, it uses radio and targeted workshop with communities and women's groups as well as a number of other communication tools, including flyers, T-Shirts, and

taking to tackle SEA and outcomes of any possible investigations?	posters. AMISOM also has established gender focal points with the PCCs and TCCs whose responsibilities including awareness raising on SEA. Also, once the CDU is established, it is expected to spearhead these efforts and ensure that communities are informed of AMISOM's approach with respect to SEA.
12. What public outreach activities, if any, are AMISOM undertaking to inform women and girls about the policy and encouraging them to report abuses?	Similar to the response above, AMISOM uses radios, flyers, and meetings with women groups. Contact information is provided in the IEC materials to the extent possible to ensure that women and girls know where and how to direct their complaints. More sensitization and outreach material are still in the process of being developed including; wristbands, billboards at densely populated cross roads, stickers, SMS alerts and songs on women's issues and SEA. Further, once the CDU is established, more concerted efforts will be made in this regard.
13. What steps are being taken to provide post-rape care to survivors who do report, including emergency contraceptives, post-exposure prophylaxis (PEP) for HIV and other sexually transmitted infections, and treatment for injuries?	There has not been any allegation of rape that has been proved in the mission via its BOI system. However AMISOM is working on having a Compensation Policy for victims of SEA and GBV'
14. What compensation is being made available to survivors of SEA?	A policy on compensation for victims is being developed and is key priority of the draft conduct and discipline strategy developed by PSOD at the AUC Hq. If approved, it means that TCC will be required to ensure that victims are compensated and assisted, as appropriate, and that PSOD will follow-up on complaints and victims' compensation claims
15. What monetary support and other assistance, if any, is being provided to children born as a result of AMISOM soldiers' sexual exploitation and abuse? Does AMISOM have a designated focal point responsible for this? What is AMISOM doing to address the lack of such support in the "AMISOM PSEA policy"?	See response to No. 14 above.

E) New initiative designed to strengthen how PSOD and AMISOM address conduct and discipline, including SEA issues

The Peace and Security Operations Division (PSOD), is establishing a capacity to address misconduct both at the Hq. and in its PSOs. To date a comprehensive strategy on conduct and discipline has been developed that will be validated in July this year and that provides a template on conduct and discipline for the AUC PSOs, starting with AMISOM. The strategy is broad-based and comprehensive and consists of eight key priority areas of engagement: namely:

i. Leadership engagement and oversight;
ii. Awareness, visibility, communication, and outreach to communities on policy, approach, and mechanisms for addressing misconduct, including SEA;
iii. Prevention of misconduct, through advocacy, sensitization, and training (Consisting of pre-deployment, induction, and in-mission/theatre/office training) and environment factors;
iv. Detection of and impartial, timely, and effective responses to violations;
v. Personnel buy-in, engagement, and welfare;
vi. Remedial actions for affected personnel and communities, possibly through QIPs, support to victims and assistance with claims, especially in relation to SEA;
vii. Formal, structured accountability and reporting; and
viii. Monitoring, evaluation, and lessons learnt.

Also, based on a recent visit by the PSOD Conduct and Discipline Advisor (CDA), PSOD has realized that it needs to do more in-depth investigations into rumors and allegations of sexual violence. As an immediate measure, PSOD has requested the CDA to facilitate further investigations into these allegations and determine the extent of the abuses, the nature of the allegations and the actions that the TCCs are taking to punish the perpetrators and assist the victims of sexual violence.

Already a Chief of Conduct and Discipline for AMISOM has been identified who is expected to report to the mission shortly. Amongst the other things this Unit is expected to establish is a robust outreach and communication strategy to ensure that communities and victims of SEA are aware of AMISOM's policy and response mechanism and that they also have easy access to reporting mechanisms.

As mentioned earlier, with support from the Gender Directorate, PSOD developed a Manual, along with a Facilitator's Guide on Gender Training for African Peacekeepers that will be used to train peacekeepers prior to deployment. Further, PSOD is also requesting assistance from the UN in establishing a misconduct data base Tracking System (MTS) for all allegations as this will greatly help the AUC in accounting for all allegations in a real time fashion as well as following up with TCCs on allegations.

F) Bottlenecks in creating an effective response against SEA

In Somali, AMISOM has had to deal with security challenges which also impacts on civilian staff levels in the mission area. As the situation has stabilized more personnel have been deployed in the mission. Earlier this year the AUC directed that all personnel assigned to AMISOM relocate from Nairobi to Mogadishu. This is expected to impact positively on all aspects of AMISOM's mandate, especially in implementing its work plans on human rights, gender and conduct and discipline.

No investigation capacity exists outside of the formed police units in the PSOs which generally carry out investigations of minor violations and incidents, such as traffic accidents, petty thefts, infractions of camp rules, amongst others. These would need to be further trained and reinforced through personnel if they are to conduct investigations into SEA. In the interim the approach employed is that of establishing BOIs to look into any allegations of misconduct that are brought to the attention of the AMISOM.

While rumors and general accusations may be founded and suggest that a matter would need to be further interrogated, they present challenges in terms of fact finding process. Nevertheless, due to the gravity of SEA and its implications for women, children, communities and the mission as a whole, AMISOM consider rumors and general accusations of SEA seriously and is carrying out assessments on the same. While a number of factors may prevent communities and individuals coming forward, AMISOM has acted on all actual cases brought to its attention.

G) Next Steps, following the release of the report

AMISOM and the AUC considers SEA as despicable and a serious crime and condemns such behavior in the strongest terms. Such behavior is unacceptable and AMISOM peacekeepers are informed and know better than to exploit the population that they have come to help and support. AMISOM embraces the approach taken by the global community through the United Nations zero tolerance and intends to look at each and every instance that is contained in the report.

Indeed, most of AMISOM's men and women in boots serve in arguably, the most complex, challenging and difficult PSO in the world. Most of them do so with pride and honor, facing the very real danger of death or grievous bodily harm on a constant and daily basis. This is especially the case as AMISOM is engaged in peace-enforcement, engaging in warfare with Al Shabab. Unfortunately, there are those among the troops that are undisciplined or act in wanton disregard of the norms, rules, and regulations expected of AMISOM personnel. AMISOM does not tolerate this and all TCCs are required to address these violations with the seriousness that they deserve.

AMISOM welcomes any information that sheds light on the behavior of its personnel and points to what it can be doing better or differently. This is the spirit that AMISOM is taking this report. It would have been especially useful if the draft report had been shared in full to enable AMISOM to consider and respond to the same in full. Nevertheless, AMISOM shall review the report carefully and draw out the issues that require its attention and engage beyond that to consider how the same could have been prevented. In particular, AMISOM intends to invite the HRW to its review and validation workshop on conduct and discipline to be held in July to share its findings and recommendations.

Consequently, AMSIOM, and by extension, the AUC cannot sufficiently underscore the importance of the report. If these allegations against TCC are founded, it would be the responsibility of the countries from which these troops come to take appropriate action against those involved. The AUC's role will be to follow-up and ensure that states act proactively to investigate the cases and punish perpetrators while also compensating victims. If there are allegations against civilian personnel, then the responsibility would be on the AUC to conduct fact-findings into the allegations and take appropriate

action in accordance with its rules and regulations. The AUC is already planning to do so and will be sending a fact finding mission, as soon as it identifies personnel with the requisite skills to do so.

The AUC would welcome the assistance and/or facilitation of the Human Rights Watch in looking into each and every case raised in the report. The AUC intends to follow-up with the TCCs to ensure that they take appropriate action, including investigating and punishing the perpetrators as well as providing required support to the victims. More importantly, as the adage goes, prevention is better than cure, hence the AUC is already working with the TCCs to strengthen its existing efforts of ensuring that the Pre-deployment training and activities emphasizes sufficiently on the conduct expected of troops once they are serving in PSOs. Also, the engagement of a CDA will also strengthen the ability of PSOD to follow up on specific cases of TCCs.

Finally, AMISOM considers that the spotlight on this matter will greatly aid its own efforts of ensuring that AMISOM TCCs are conducting themselves as expected. While most soldiers behave themselves in accordance with their military training and code of ethics and respect the AUC Code of Conduct, there is always the bad apple that can have devastating effects. AMISOM is committed to minimizing this to the barest minimal, as even one case, is one too many. AMISOM is relying on Human Rights Watch, cooperation and assistance in identifying the alleged perpetrators so that justice cannot only be done, but can also be seen to be done.

“The Power These Men Have Over Us”

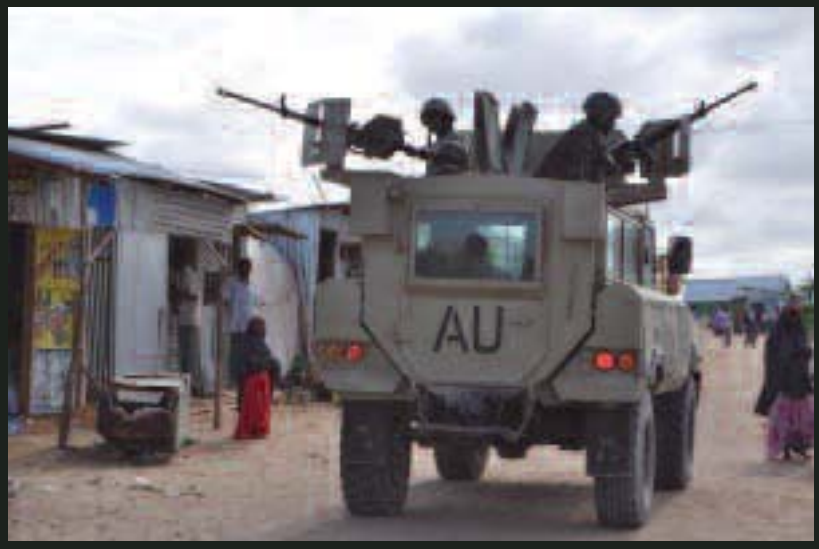
Sexual Exploitation and Abuse by African Union Forces in Somalia

Some soldiers with the African Union Mission to Somalia (AMISOM), created to help restore stability in the war-torn country, have abused their positions of power to prey on the most vulnerable women and girls in Mogadishu.

“The Power These Men Have Over Us”: Sexual Exploitation and Abuse by African Union Forces in Somalia documents the sexual abuse and exploitation of Somali women and girls on AMISOM bases in Mogadishu since 2013. The report is based on more than a year’s research in the capitals of Somalia, Uganda, and Burundi, including interviews with 21 survivors of sexual exploitation and abuse. All of the women and girls were from displaced communities from throughout south-central Somalia.

Survivors of sexual exploitation and rape by AMISOM personnel face huge obstacles to obtaining assistance and justice. These include: the lack of reliable complaints mechanisms and channels for redress as well as the risk of stigma, reprisals from family, police, and the Islamist insurgent group Al-Shabaab. In addition, troop-contributing countries and the African Union (AU) have not made this issue a priority or taken the necessary measures to tackle the problem.

Human Rights Watch urges troop-contributing countries to appropriately punish perpetrators and ensure survivors are adequately supported. It calls on the AU and AMISOM to foster an organizational culture of “zero tolerance” of unlawful activities on their bases. International donors should closely monitor AMISOM and take action when AMISOM forces are committing sexual exploitation and abuse and when the relevant authorities have failed to take the necessary corrective measures.



AMISOM troops patrolling the Zona-K camp for displaced people in Mogadishu’s Hodan district in June 2012.

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