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### **IMPLEMENTATION OF GENERAL ASSEMBLY RESOLUTION 60/251 OF 15 MARCH 2006 ENTITLED “HUMAN RIGHTS COUNCIL”**

**Written statement\* submitted by Human Rights Advocates, Inc. (HRA),  
a non-governmental organization in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[21 February 2007]

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\* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

### **Sexual Exploitation and Sexual Abuse by Military, Peacekeeping & Private Military Forces**

1. The United Nations does not have the authority to prosecute allegations of sexual exploitation, sexual abuse, or trafficking in persons brought against forces contributed to a peacekeeping mission.<sup>1</sup> Without this authority, the United Nations relies on troop-contributing countries to prosecute allegations. Placing troop-contributing countries under an obligation in international law to investigate and prosecute allegations brought against contingent members is an important step in ending peacekeeper participation in sexual exploitation, sexual abuse, and trafficking. Creating this obligation, and drawing attention to any failure to comply, will provide an incentive for troop-contributing countries to take affirmative steps to eradicate sexual exploitation and abuse by peacekeepers. In addition, the United Nations must call on member states to prosecute allegations brought against all military personnel serving as members of a national military force, and criminalize these human rights abuses under national military regulations.

#### **Sexual Exploitation & Sexual Abuse**

2. Security Council Resolution 1325 (“Resolution 1325”) requires member states, the United Nations, and all parties involved in armed conflict to take special measures to protect women and girls from gender based violence and to prosecute those responsible for any acts of targeted violence.<sup>2</sup> In 2003, the United Nations instituted a zero tolerance policy regarding sexual exploitation and sexual abuse by United Nations peacekeepers, outlined in a Secretary-General’s bulletin (hereinafter “2003 bulletin”).<sup>3</sup> The 2003 bulletin reinforced that sexual exploitation and abuse are prohibited for United Nations staff, and set forth several specific standards to clarify obligations already in existence. Although allegations of sexual exploitation and abuse continue to surface, as evidenced by reports from the Democratic Republic of the Congo (“DRC”),<sup>4</sup> Haiti,<sup>5</sup> and southern Sudan,<sup>6</sup> the United Nations continues to demonstrate a commitment to addressing the problem.<sup>7</sup>

3. In December 2006, the General Assembly received a report on making the standards contained in the 2003 bulletin binding on “members of national contingents assigned to the military component of a United Nations peacekeeping operation.”<sup>8</sup> The report recommended that the United Nations seek a note verbale from troop-contributing

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<sup>1</sup> See Report of the Group of Legal Experts on Making the Standards Contained in the Secretary-General’s Bulletin Binding on Contingent Members and Standardizing the Norms of Conduct so that they are Applicable to All Categories of Peacekeeping Personnel, Document No. A/61/645 (18 December 2006) [hereinafter Binding Contingent Members].

<sup>2</sup> Document No. S/RES/1325 (2000).

<sup>3</sup> Secretary-General’s Bulletin: Special Measures for Protection from Sexual Exploitation and Sexual Abuse, Document No. ST/SGB/2003/13 (2003).

<sup>4</sup> Investigation by the Office of Internal Oversight Services into Allegations of Sexual Exploitation and Abuse in the United Nations Organization Mission in the Democratic Republic of the Congo, Document No. A/59/661 (2005).

<sup>5</sup> BBC News, UN Troops Face Child Abuse Claims, Nov. 11, 2006 (available at <http://news.bbc.co.uk/go/pr/fr/-/2/hi/americas/6195830.stm>).

<sup>6</sup> Mike Pflanz, UN to Hold Inquiry Into Sudan Child Abuse, TELEGRAPH.CO.UK, January 5, 2007 (available at <http://www.telegraph.co.uk/news/main.jhtml?xml=/news/2007/01/04/wsudan04.xml>).

<sup>7</sup> Binding Contingent Members, *supra* note 1 (“[B]etween 1 January 2004 and 23 August 2006, there have been 144 repatriations or rotations of persons on disciplinary grounds, including seven commanders.”).

<sup>8</sup> *Id.*

countries stating that the deployment is “contingent on the understanding that the country will take action to ensure that its members observe the standards of the 2003 bulletin.”<sup>9</sup> If the troop-contributing country deploys a contingent without qualification, it will be bound in international law to apply the standards in the 2003 bulletin to its contingent members. Although the United Nations may not force a country to prosecute under its domestic laws, the United Nations may publicize a failure to fulfill an obligation in international law to do so.

4. National military forces have also been implicated in acts of sexual exploitation and sexual abuse. On 13 October 2006 in the DRC, uniformed members of the Congolese Army attacked Mrs. Malenga Ramazani and her daughter.<sup>10</sup> The men raped the thirteen year old daughter and raped Mrs. Malenga Ramazani repeatedly over the course of three days, shot her in the vagina, and mutilated her before she died. On 22 December 2006, a military tribunal sentenced four of the nine army members to life in prison and expelled them from the army for the rapes, murder, and genital mutilation. Five of the accused army members allegedly fled the DRC and have not been prosecuted for their involvement in these atrocities. *Human Rights Advocates commends the DRC for prosecuting four of the Army members responsible for these human rights violations, and urges the DRC to take all possible measures to ensure that the remaining five Army members responsible for the crimes are prosecuted.*

### **Trafficking in Persons**

5. Trafficking in persons is a modern day form of slavery. Historically, the deployment of military and peacekeeping troops has been closely followed by the emergence of a sex industry to cater to those troops.<sup>11</sup> Trafficking of women and girls to meet the perceived demand for sex workers created by armed conflict is an act of gender based violence, and therefore Resolution 1325 applies.

6. When allegations of trafficking are brought against forces involved in armed conflict, the special measures required by Resolution 1325 should include prosecution of those allegations. As the United Nations does not have the authority to prosecute allegations of trafficking, prosecution under domestic laws of member states is a necessary step in eradicating military and peacekeeper involvement with trafficking. Morocco recently convicted four Moroccan soldiers serving as United Nations peacekeepers for involvement in trafficking.<sup>12</sup> Unfortunately, the convicted soldiers received minimal sentences, ranging from three months to one year.<sup>13</sup> *Human Rights Advocates commends Morocco on the prosecution, urges other countries to prosecute allegations of trafficking, and urges that all future sentences better reflect the nature of the crime.*

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<sup>9</sup> Id.

<sup>10</sup> World Organisation Against Torture, Sentencing of 4 of the 9 authors for the rape, amputation and murder of Malenga Ramazani and for the rape of her 13 years old, 22 January 2007.

<sup>11</sup> See, e.g., Amnesty International, Kosovo (Serbia and Montenegro) “So does it mean that we have the rights?” Protecting the Human Rights of Women and Girls Trafficked for Forced Prostitution in Kosovo, (6 May 2004), available at <http://web.amnesty.org/library/Index/ENGEUR700102004>.

<sup>12</sup> United States Department of State, Trafficking in Persons Report (2006).

<sup>13</sup> Id.

7. In recent years, a growing international awareness of the role that military and peacekeeping forces play in creating a demand for sex trafficking victims has fueled an effort to address the problem through the implementation of zero tolerance policies. The United Nations, NATO, and the United States have each adopted such a policy. Although zero tolerance policies aim to prohibit any involvement with or support of trafficking, they are only as effective as their training and enforcement mechanisms. Policies must require comprehensive training programs and focus on the human rights atrocities suffered by trafficking victims. In addition to adequate training, zero tolerance policies must include enforcement mechanisms for prosecuting military and peacekeeping personnel involved in trafficking in persons.

### **Holding Private Security Companies Accountable**

8. Security and military support roles are increasingly being filled by private security companies ("PSCs"). For example, civilian contractors are currently engaged in key roles in Iraq and Afghanistan including reconstruction projects, training military and security personnel, and rebuilding infrastructure.<sup>14</sup> Up to July 2004, the United States awarded contracts to PSCs in Iraq and Afghanistan totaling more than \$48 billion (USD).<sup>15</sup> In July 2005, the United States Department of Defense estimated that there were at least 60 PSCs working in Iraq, employing as many as 25,000 people.

9. As PSC involvement in international contracts has increased, allegations of human rights abuses have been leveled against them. In 2000, employees of a United States PSC, DynCorp, in Bosnia were accused of participating in a sex trafficking ring.<sup>16</sup> DynCorp employed the individuals to recruit, hire and train International Police Task Force members in Bosnia-Herzegovina, a contract worth \$15 million (USD).<sup>17</sup> Although the employees were transferred out of Bosnia, the allegations did not result in a single criminal prosecution. In 2003, despite the documented instances of human rights abuses committed by its employees, the United States awarded the multi-million dollar contract for policing Iraq to DynCorp.<sup>18</sup>

10. The Trafficking Victims Protection Reauthorization Act of 2005 includes a provision extending United States criminal jurisdiction to all government contractors for involvement with trafficking while stationed abroad. However, a provision establishing a Department of Defense Director to oversee anti-trafficking policy implementation for armed forces and contractors was deleted from the final version of the bill. *Human Rights Advocates commends the United States on its efforts to extend extraterritorial criminal jurisdiction to government contractors, but urges the United States to incorporate monitoring provisions in the Trafficking Victims Protection Reauthorization Act of 2007.*

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<sup>14</sup> Amnesty International, Annual Report: Outsourcing Facilitating Human Rights Violations (2006).

<sup>15</sup> Id.

<sup>16</sup> Laura A. Dickinson, Government For Hire: Privatizing Foreign Affairs and the Problem of Accountability Under International Law, 47 Wm. & Mary L. Rev. 135 (2005).

<sup>17</sup> Heather Carney, Prosecuting the Lawless: Human Rights Abuses and Private Military Firms, 74 Geo. Wash. L. Rev 317, 326 (2006).

<sup>18</sup> Amnesty International, A Catalogue of Failures: G8 Arms Exports and Human Rights Violations, available at <http://www.amnestyusa.org/us/document.do?id=90E529CE1563379C80256D26005CB2A1>.

11. The extension of criminal jurisdiction to cover contractors stationed overseas is only the first step in addressing the human rights abuses committed by PSCs. Without monitoring and enforcement mechanisms, the extension of jurisdiction alone will not be an effective means of holding contractors accountable. To fully address the problem, all countries employing PSCs must enact legislation extending criminal jurisdiction and creating effective mechanisms to monitor the actions of contractors stationed overseas.

### **Recommendations**

#### **WITH RESPECT TO SEXUAL EXPLOITATION, ABUSE AND TRAFFICKING BY MILITARY AND PEACEKEEPERS,**

*Human Rights Advocates urges the Council to recommend to the General Assembly that the United Nations:*

Use a note verbale to make the standards against sexual exploitation and abuse contained in the 2003 Bulletin binding on countries contributing troops to peacekeeping missions.

Use a note verbale to make anti-trafficking standards binding on countries contributing troops to peacekeeping missions.

*Human Rights Advocates urges Member States to fully comply with Resolution 1325 by incorporating:*

The recommendations contained in the 2003 Secretary-General's bulletin into national military regulations, and requiring military forces to comply with these standards whenever they are involved in armed conflict.

A zero tolerance policy with regard to trafficking into national military regulations, including effective reporting and monitoring provisions, and require military forces to comply with these standards whenever they are involved in armed conflict.

#### **WITH RESPECT TO PRIVATE SECURITY COMPANIES,**

*Human Rights Advocates urges the Council to expand the mandate for the mandate on Mercenaries to include investigating reports of human rights abuses and monitoring the activities of government employed Private Security Companies.*

*Human Rights Advocates urges Member States to enact domestic legislation extending criminal jurisdiction to cover human rights abuses committed by all employees of private security companies under contract with any government agency, and including effective reporting and monitoring provisions.*

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