

# FINAL REPORT OF THE INDEPENDENT COMMISSION

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## I. Introduction

1. The World Health Organization (WHO) played a central role in the international response to the tenth outbreak of Ebola virus disease in the eastern Democratic Republic of Congo (DRC) between August 2018 and June 2020. During this period, 3481 people were infected with the haemorrhagic fever known as Ebola and 2299 people died. This Ebola outbreak in North Kivu and Ituri provinces, the second largest Ebola outbreak on record, was declared over on 25 June 2020.

2. In response to press reports of alleged sexual exploitation and abuse by WHO staff in the response to the tenth Ebola outbreak<sup>1</sup>, WHO Director-General Tedros Ghebreyesus has announced the establishment of an Independent Commission of Inquiry to investigate allegations of sexual exploitation and abuse.

3. The objective of the Independent Commission is to conduct an impartial, independent and comprehensive review of the facts regarding allegations of sexual exploitation and abuse during the 10th response, to identify victims and any weaknesses in the current system within the organisation in order to propose measures to prevent such behaviour in the future and, most importantly, to ensure that perpetrators of sexual exploitation and abuse are held accountable for their actions.

4. To carry out its mandate, the Independent Commission recruited a review team - responsible for the technical aspect of the investigations - through a competitive tender process and was assisted by a Secretariat in its day-to-day operation.

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<sup>1</sup> In an article in *The New Humanitarian*, more than 50 women accused officials from the WHO, UN agencies and humanitarian organisations of sexual exploitation and abuse during the 2018-2020 crisis. Subsequent reporting by these and other media outlets estimated that the number of women exposed to sexual exploitation and abuse was greater. See Robert Flummerfelt and Ange Kasongo, 'Exclusive: New sex abuse claims Ebola aid workers exposed in Congo', *The New Humanitarian* and *Thomson Reuter Foundation*, 12 May 2021; Robert Flummerfelt and Nelly Peyton, 'Exclusive: More than 50 women accuse aid workers of sex abuse in Congo Ebola crisis', *The New Humanitarian* and *Thomson Reuters Foundation*, 29 September 2020.

5. First, the Independent Commission will explain the methodology used before returning to the context of the response to the tenth Ebola epidemic. It will then share the results of its investigations in relation to both axis 1 and axis 2 of its mandate.

## II. Methodology

6. The review team, hired on 1 April 2021 by the Independent Commission, is composed of experts in the investigation of allegations of sexual exploitation and abuse and gender-based violence, victim and witness protection, psychosocial counselling and database management.

7. The review team conducted five field missions in eastern DRC, one to Goma, three to Beni and one to Bunia. The review team conducted a number of interviews, including remote interviews when circumstances required.

8. A total of 210 interviews were conducted, including interviews with 75 alleged victims, 23 WHO staff, including 15 with various responsibilities related to PEAS during the response, 32 UN agency staff, 23 international humanitarian staff, 34 local non-governmental organisation staff and 23 other individuals with relevant information. The Independent Inquiry Commission's investigators interviewed a number of senior WHO officials, including the Director-General and many others who were still with the organisation or had left.

9. In order to gather as much information as possible about allegations of sexual exploitation and abuse, the Independent Inquiry Commission, through its review team, has issued a call for submissions or a call for witnesses, inviting persons who have been victims or witnesses of sexual exploitation or abuse to share their experiences or information with the Independent Inquiry Commission's investigators. WHO was asked to circulate the call for submissions to current and former WHO staff to encourage them to provide information to the investigators.

10. The review team also interviewed several alleged perpetrators whom they were able to identify on the basis of testimonies from the alleged victims and individual information available in the documentation provided by the organisation.

11. The review team received documents relating to 22 interviews with alleged victims conducted by the UN OIOS in January 2021 in Mangina, North Kivu, as well as the report of one case. The team contacted and interviewed seven of the individuals in the transmitted files.

12. The review team also received over 598,000 documents from WHO as part of its investigations. These documents contained, in addition to extensive documentation on policies and strategies to prevent and respond to sexual exploitation and abuse, excerpts from 22 interviews conducted in Mangina, North Kivu, in January 2021 by the UN Secretariat's Office of Internal Oversight Services (OIOS). DNA samples were also collected by the OIOS in some cases, but the review team was unable to access the results.

13. Among the documents provided by WHO to the Independent Inquiry Commission investigators are individual human resources files, professional emails, memoranda and documents relating to the operations of the response to the tenth Ebola outbreak.

14. The review team collected lists of alleged victims from various sources, local NGOs and a health zones.

15. During the interviews with the alleged victims, the Independent Commission's investigators focused on free narrative with follow-up questions. After the narrative, a written statement was prepared and read back to the victim with the help of an interpreter if necessary.

16. The review team took all necessary steps to ensure the protection of witnesses and alleged victims. For example, it conducted the interviews in secure houses, providing the witnesses and alleged victims with the necessary privacy and confidentiality. The review team also provided psychological support before and after each interview.

17. Voter cards, birth certificates, telephone numbers, photographs and descriptions of alleged perpetrators, medical records, text *message* (SMS) and email data were among the information that the Independent Commission's investigators were able to access.

### III. Background to the response to the tenth Ebola outbreak

#### A. The declaration of a public health emergency of international concern

18. On 1st August 2018, the Ministry of Health of the Democratic Republic of Congo declared the 10th Ebola outbreak, the first cases of which appeared in Mangina, a small town 28 km north of the city of Beni<sup>2</sup> in eastern DRC. In a few weeks, the virus spread to the towns of Beni and Butembo, located in the province of North Kivu, as well as to certain territories in the province of Ituri. On 17 July 2019<sup>3</sup>, WHO declared this new Ebola epidemic a public health emergency of international concern.

19. A total of 3,481 people contracted the Ebola virus during this new epidemic and 2,299 people died. The highest prevalence rate was in Beni, Katwa, Mabalako, Butembo and Kalungata in North Kivu province and in Mandima in Ituri province.

#### B. A context of violence, humanitarian crisis and stress

20. The response to the tenth Ebola outbreak took place in a context of violence and humanitarian crisis marked by population mobility. Indeed, due to mistrust around the disease caused by misinformation about its origin, various health workers faced strong resistance from communities<sup>4</sup> and sometimes acts of violence. Between 1 August 2018 and 27 February 2020, WHO recorded more than 420 attacks on health facilities and workers responding to the tenth Ebola outbreak. Eleven people died and eighty-six were injured in these attacks<sup>5</sup>, which in some cases led to the temporary or permanent suspension of activities at Ebola treatment centres, including those in Butembo and Katwa<sup>6</sup>.

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<sup>2</sup> Democratic Republic of Congo, "Special Communication from His Excellency the Minister of Health on the Epidemiological Situation in North Kivu Province as of 1 August 2018" 1 August 2018, <https://us13.campaign-archive.com/?u=89e5755d2cca4840b1af93176&id=24b904b316>

<sup>3</sup> WHO, 'Statement on the meeting of the International Health Regulations (2005) Emergency Committee for Ebola disease in the Democratic Republic of the Congo on 17 July 2019'.

<sup>4</sup> Interview with Dr Fall; see also, Susannah Mayhew, Patrick Milabyo Kyamusugulwa, Kennedy Kihangi Bindu, Paul Richards, Cyrille Kiyugu and Dina Balabanova, 'Responding to the 2018-2020 Ebola virus outbreak in the Democratic Republic of the Congo: Rethinking Humanitarian Approaches', *Risk Management and Healthcare Policy*, 2021, pp. 1731-1747.

<sup>5</sup> Remarks by Dr Fall, WHO Assistant Director General, 6 March 2020, <https://www.unmultimedia.org/tv/unifeed/asset/2538/2538719/>; Internal note by a WHO socio-anthropologist consultant: 'Response to the Ebola Virus Disease outbreak in North Kivu and Ituri. Understanding the reluctance and misunderstandings between partners and communities' (DRCD0007-0021845.0001), 13 September 2018

<sup>6</sup> Médecins Sans Frontières (MSF), *Crisis update - July 2019*. DRC Ebola Outbreak. See also, WHO, Speech by Dr Tedros Adhanom Ghebreyesus, Director-General, 72nd World Health Assembly, A72/3, 20 May 2019.

21. The epidemic has had a significant impact on affected communities<sup>7</sup>. Not only has Ebola resulted in a significant number of deaths, but it has also produced severe physical and psychological suffering among infected people in particular and in affected communities in general. Indeed, the virus has generated fear, stress and panic, with significant consequences for the mental health of the victims and their families as well as the health workers deployed to deal with the Ebola epidemic. The epidemic is having a negative impact on community cohesion, security and well-being.

### C. A very strong mobilisation of the international community

22. The mobilisation of the international community has been very strong both in terms of financial resources made available and in terms of human resources deployed on the ground as part of the response to the tenth Ebola epidemic.

23. The Office for the Coordination of Humanitarian Affairs (OCHA) Financial Tracking Service estimates the annual allocation received for the response at US\$548,875,564<sup>8</sup>. The *Humanitarian Policy Group* (HPC) calculated the total known expenditure at US\$1072.4 million<sup>9</sup>.

24. In May 2019, Mr David Gressly was appointed by the UN Secretary-General as the UN Coordinator for the Ebola emergency response. This appointment was intended to strengthen the technical coordination work already undertaken on the ground by Dr Ibrahima Socé Fall, WHO Assistant Director-General in charge of managing the emergency response to the tenth Ebola <sup>10</sup>outbreak.

25. The international mobilisation to fight the virus has also been significant in terms of personnel. According to the Inter-Agency Standing Committee, at the height of the Ebola

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<sup>7</sup> Médecins Sans Frontières (MSF), *Crisis update - July 2019*. DRC Ebola Outbreak. See also, WHO, Speech by Dr Tedros Adhanom Ghebreyesus, Director-General, 72nd World Health Assembly, A72/3, 20 May 2019.

<sup>8</sup> Reported here: <https://fts.unocha.org/emergencies/707/flows/2020>, <https://fts.unocha.org/emergencies/707/flows/2019>, <https://fts.unocha.org/emergencies/707/flows/2018>

<sup>9</sup> Ministry of Health, 'Strategic response plan for the Ebola virus disease outbreak in the provinces of north kivu and ituri democratic republic of the congo' July - December 2019, <https://reliefweb.int/sites/reliefweb.int/files/resources/drc-srp4-9august2019.pdf>.

<sup>10</sup> Code Cable, "Strengthening the UN response to Ebola in the DRC" 14 May 2019

response, 2800 personnel were deployed under the auspices of WHO <sup>11</sup>. The WHO internal audit report indicated that as of June 2019, 637 posts were assigned to incident management in North Kivu, filled by 74 WHO staff, 197 international consultants and 366 national consultants, who together accounted for more than half of the personnel deployed by WHO in North Kivu.

#### D. A predominantly male workforce

26. Based on the information collected by the review team, 73.4% of the posts were occupied by men and 26.6% by women<sup>12</sup>. This is <sup>13</sup>.

Year	Percentage	
	Women	Men
2018	27,2%	72,8%
2019	26,6 %	73,4%
2020	25,2%	74,8%

27. The ratio of men to women by functional occupation follows a similar trend in leadership and coordination functions and the imbalance becomes more pronounced in the operational and logistical support service category where women represented only 8.5% of the workforce. Only in administration and finance jobs do women have a much higher representation than men. The table below illustrates this.

	Leadership	Coordination with partners	Planning and information	Health expertise and operations	Operations support and logistics	Administration and finance
<b>Women</b>	22,51%	20,83%	22,09%	27,40%	8,48%	53,07 %
<b>Men</b>	77,49%	79,17%	77,91%	72,60%	91,52%	46,93 %

#### E. Journalists deployed by the Ministry of Health

28. The WHO internal audit report notes that for the implementation of activities in the response to the tenth Ebola outbreak, the Ministry of Health deployed a number of personnel to the field, including in the areas of immunisation and communication, to whom WHO paid per diems at rates determined by the Ministry. The report notes, however, that there was no

<sup>11</sup> Senior Technical Support Mission to the Democratic Republic of Congo, Emergency Directors Group, Report, December 2020 (IASC Report), 3.

<sup>12</sup> WHO, "SEA DRC HR Data 2018-2020", DRCD0002-0000008?

<sup>13</sup> WHO, Support to the Independent Commission on Sexual Exploitation and Abuse in the Democratic Republic of the Congo during the tenth Ebola Response: Request for Proposals (RFP) Bid Reference 2020-132\_DGO\_SEA-DRC', DRCD4000-000001.

control over the exact number of staff actually deployed by the Ministry of Health or the allowances paid by the organisation. The team was also able to establish that there was no memorandum of understanding between WHO and the government of the Democratic Republic of Congo to regulate the status of these day workers<sup>14</sup>.

#### F. New wage eldorado for people

29. The opportunity for employment in an economically disadvantaged area, often at significantly higher rates of pay than normal for the region, attracted a large number of job seekers<sup>15</sup>. These job seekers were not only from the local communities, but also from far away.

30. A young woman from Mangina named "Beatrice", one of the alleged victims, told the review team that information about the 10th response recruitment was circulating all over town, even at the funeral ceremonies of Ebola victims.

## IV. Results of the Independent Commission's investigations

The Independent Commission will report the results of its investigations along the two lines of its mandate, as set out in its terms of reference.

### A. Axis 1 of the Independent Commission's mandate

31. The Independent Commission will provide an overview of focus one of its mandate before proceeding to analyse WHO's policy framework on sexual exploitation and abuse. It will also identify the structures within the organisation responsible for managing the response to the tenth Ebola outbreak. It will then make some findings before drawing conclusions.

#### 1. Overview of Axis 1

32. The mandate of the Independent Commission under axis 1 is to establish the facts and underlying circumstances relating to allegations of sexual exploitation and abuse by the organisation's staff and/or its partners or contractors during the response to the tenth Ebola

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<sup>14</sup> WHO, 'Audit Report NO. 19/1164 - 2, Ebola Virus Disease: Operational Support in the Democratic Republic of the Congo', November 2019, p. 4.

<sup>15</sup> According to figures analyzed by the team, local recruits were paid between USD 10 - USD 150 per day (or USD 300 - USD 4,500 per month) depending on the role. Michel - a pseudonym - explains: "There was a big financial problem here. The average salary in Beni is about 25 or 30 USD, even the traders were paying these amounts. So, when the Ebola response came, entering the response became like entering social heaven. There were tempting salaries, for example US\$300 for the lowest salary. The local wage standard was multiplied by 10. Witness interviewed by the team in Beni, IC SEA N1.



outbreak. It is also the responsibility of the Independent Commission to identify systemic issues and other factors that have affected or impeded the prevention of sexual exploitation and abuse during the response to the tenth Ebola outbreak.

## 2. WHO has an adequate legal framework to prevent and combat sexual exploitation and abuse

33. This is the conclusion reached by the Independent Commission after analysing the various legal texts applicable within WHO in relation to the prevention and control of sexual exploitation and abuse.

### 2.1 The main legal texts applicable

34. These are firstly the Policy on Exploitation and Abuse Prevention and Response of March 2017 and secondly the Code of Ethics and Professional Conduct of April 2017. These two texts are complementary. The Independent Commission has drawn some definitions of important concepts and procedures from them, which it will draw on in its assessment of the circumstances surrounding the 10th Ebola response.

### 2.2 Some definitions of important concepts

#### *i. Sexual exploitation*

35. Sexual exploitation is defined as any actual or attempted abuse of a position of vulnerability, differential power or trust for sexual purposes, including but not limited to threatening or profiting monetarily, socially or politically from the sexual exploitation of another.”

#### *ii. Sexual abuse*

36. Sexual abuse is defined as “the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions”

37. Sexual relations with a child in any context also fall under sexual exploitation and abuse, with a child defined as "a human being under the age of eighteen years".

#### *iii. Beneficiary persons or populations*

38. The term “Beneficiary Population” as “the people WHO works with and/or serves or

seeks to assist across the world, who are typically in situations of vulnerability and dependence vis à vis WHO staff. Beneficiaries are individuals who are direct or indirect recipients of humanitarian/emergency or other WHO action in any duty station. Among such individuals, women and children are particularly at risk of sexual exploitation and abuse (SEA).”

#### *iv. Collaborators*

39. The term "collaborators" refers to persons working for WHO who are not staff members, including consultants, special service contract holders or Agreement for Performance of Work (APW) letter of agreement holders, temporary advisers to interns and volunteers, as well as third parties such as subcontractors, suppliers or technical partners under contract<sup>16</sup>. The Independent Commission considers that in this case the day labourers seconded by the Congolese Ministry of Health fall into this category.

#### 2.3 The obligation of WHO staff to report sexual exploitation and abuse

40. This is reflected in paragraph 16 of the Policy Policy on Sexual Exploitation and Abuse Prevention and Response which states

“WHO staff who witness or become aware of acts of SEA by fellow staff or collaborators working for WHO, personnel or employees of non-WHO entities with whom WHO has entered into collaborative agreements, have a duty to report to WHO through the Integrity Hotline. Individuals working for and with WHO and who report wrongdoing by a WHO staff or collaborator will be entitled to protection against retaliation in accordance with the provisions of the policy on whistleblowing and protection against retaliation”

41. Paragraph 18 of the same Policy provides that failure to report known acts of sexual exploitation or abuse may result in disciplinary sanctions.

#### 2.4 The obligation of the Organisation to provide training in the prevention of sexual exploitation and abuse

42. Paragraph 26 of the March 2017 Policy states that as part of the prevention of sexual exploitation and abuse and awareness raising, staff will be required to attend and pass the training module dedicated to these issues. General ethics training will include an overview of

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<sup>16</sup> The EAS Policy (2017), section 3.3.

sexual exploitation and abuse issues, and specific modules will be added to WHO pre-deployment training, surge capacity training, emergency medical team training, Global Outbreak Alert and Response Network (GoARN) training, and Health Cluster Coordination training.

43. In light of the above, the Independent Inquiry Commission notes that training is an integral part of the prevention of sexual exploitation and abuse mechanism and that WHO staff in the broadest sense are required to complete and pass their training module, both in normal times and in emergency situations such as the response to the tenth Ebola outbreak.

#### 2.5 The obligation to investigate alleged sexual exploitation and abuse as a matter of priority

44. Paragraph 36 of the March 2017 Policy on Preventing and Combating Sexual Exploitation and Abuse states that " WHO will initiate its own fact-finding investigation into reports of SEA as a priority. Based on the gravity of the situation and the evidence available, WHO will refer the matter to national authorities for criminal proceedings as appropriate, and will collaborate with national authorities, including by waiving immunity". The Independent Commission believes that this is a *prima facie* investigation, *i.e.*, *on the* basis of first impressions.

### 3. Structures within the organisation responsible for managing the response to the tenth Ebola outbreak

45. The Independent Commission notes that WHO has upgraded the Ebola epidemic in North Kivu to level 3 emergency classification. It considers that, within the framework of its mandate, it is up to the Commission to evaluate the place reserved for the theme of prevention and the fight against sexual exploitation and abuse in the composition of operational teams.

46. The Independent Commission will then set about assessing the responsibilities of management in dealing with incidents of sexual exploitation and abuse.

#### 3.1 Classification of the epidemic in North Kivu as a level 3 public health emergency

47. The Independent Commission notes that it was by memo dated 1 August 2018, that WHO upgraded the situation of the epidemic prevailing in North Kivu to a level 3 public health emergency. This meant that the implementation of the organisation's emergency response would be guided by the provisions XVII.2.4 of the Standard Operating Procedure

(SOP) on the incident management system. These provisions state that, in the Level 3 context, the day-to-day management of field operations is the responsibility of the Incident Manager under the supervision of the Regional Emergency Director (RED) and the Emergency Operations Manager (EMO), the latter two working under the supervision of the WHE Executive Director. The above functions are, in the view of the Independent Commission, the key leadership positions in the chain of responsibility for operational health emergency management. It should also be noted that the Director of Emergency Operations and the Executive Director of Health Emergencies are based at headquarters, while the Incident Manager and Regional Emergency Director are deployed in the field.

48. In view of the above, the Independent Inquiry Committee notes that the WHO Director-General and the head of the WHO Director of the Regional Office for Africa were not directly involved in the primary management of the Level 3 emergency operations.

### 3.2 The place of prevention and combating sexual exploitation and abuse in the composition of operational teams

49. The Independent Commission notes that in response to the Ebola epidemic in North Kivu, WHO sent emergency teams to the three localities of Beni, Butembo and Goma. Each of the teams was composed as follows

- *Programme Manager*
- *Budget and Finance*
- *HR Officer*
- *Planning Officer*
- *Monitoring and Evaluation Officer*

50. The Independent Inquiry Committee notes that these teams were completely unaware of the risk management dimension of sexual exploitation and abuse, as they did not include a specialist in the prevention and response to sexual exploitation and abuse. It is therefore clear that the teams deployed in the field by the Organisation were inherently lacking in any capacity to manage the risks of sexual exploitation and abuse that might arise during their operations.

51. It would have been expected, however, that a specific position dedicated to the prevention and response to sexual exploitation and abuse would have been integrated into each of the emergency management teams in the field, especially in light of the suspected acts

of sexual exploitation and abuse during the response to the ninth outbreak and, beyond that, the numerous incidents of sexual exploitation and abuse that have occurred in several UN system operations in the past.

### 3.3 Assessing the responsibilities of management in dealing with incidents of sexual exploitation and abuse

52. The review team met with several WHO officials, including the Director-General, Dr Tedros Adhanom Ghebreyesus, the Executive Director of Health Emergencies, Dr Michael Ryan, the Director of the Regional Office for Africa, Dr Matshidiso Moeti.

53. 11. During her interview with the review team, Dr Matshidiso Moeti stated that she had never been notified of any incident of sexual exploitation and abuse. She added that she only learned about incidents of sexual exploitation and abuse after they were published in the press.

54. In his interview with the review team, Dr Tedros Ghebreyesus said that he was only aware of the numerous allegations of sexual exploitation and abuse in the response to the tenth epidemic when they were revealed in the press in September 2020. He also added that he was only made aware of the case of Jean-Paul Ngandu when the information appeared in the *Associated Press* article of 11 May 2021.

55. The Independent Commission considers that Dr Tedros Ghebreyesus, Dr Michael Ryan, all based in Geneva, and Dr Matshidiso Moeti, Director of the Africa Department, were not performing any operational functions. It can therefore only assess their responsibility in relation to the management of the incidents of sexual exploitation and abuse if they had knowledge of them and had given instructions to the contrary to open an investigation.

56. The Independent Commission notes that the review team was able to access extensive WHO documentation, including email exchanges from the period of the response to the tenth outbreak. In this regard, it notes that the review team was unable to establish that Dr Tedros Ghebreyesus, Dr Michael Ryan or Dr Matshidiso Moeti were individually, directly and immediately notified of any incident of sexual exploitation and abuse prior to their disclosure in the press.

57. The review team was also able to hear from close associates of the three, and in

particular from close associates of the Director General, including Bernhard Schwartländer, his former Chef de Cabinet, Andreas Mlitzke and David Webb. The Independent Commission notes that none of them reported any obstruction of their work by the Director General, the Executive Director of Health Emergencies, and the Director of the Regional Office for Africa.

58. In particular, with regard to the case of Mr Boubacar Diallo, Dr Tedros Ghebreyesus, during his interview with the investigators, acknowledged that he had instructed Mr David Webb, who had come to inform him in January 2021 of incidents involving Mr Diallo, to defer any internal investigation until the publication of the conclusions of the Independent Commission and to transmit to the latter all the information at his disposal. This version of events is consistent with that given by Mr David Webb to the review team.

59. In this regard, the Independent Commission considers that its establishment in October 2020 and its mandate to investigate allegations of sexual exploitation and abuse during the response to the tenth epidemic *de facto* and logically entailed an automatic divestment of any internal investigative body within the Organisation, until the publication of its final findings.

60. In light of the above, therefore, the Independent Inquiry Committee has no information at this time that would give rise to personal responsibility on the part of Dr Tedros Ghebreyesus, Dr Michael Ryan or Dr Matshidiso Moeti in relation to wrong handling of incidents of sexual exploitation and abuse by WHO staff or in relation to allegations of sexual exploitation and abuse published in the press.

#### 4. Findings

61. On the basis of the information available to it, the Independent Commission has made a series of findings detailed below.

##### 4.1 Misinterpretation of the concept of "beneficiary population"

62. When asked why no investigation was opened into the alleged sexual exploitation and abuse in the incident involving Dr Jean-Paul Ngandu - once the matter was revealed at headquarters - Mr David Webb, Director of the WHO Office of Internal Oversight Services (OIS) explained to the Independent Commission investigators that no investigation (CRE) had been opened. David Webb<sup>17</sup>, Director of the WHO Office of Internal Oversight Services

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<sup>17</sup> Interview with Mr David Webb

(OIS) explained to the Independent Commission investigators that no investigation (CRE) was opened because the woman who came to the WHO office in Beni was not a "beneficiary" as defined by the applicable regulations.

63. When approached on the same issue, Mr Andreas Mlitzke<sup>18</sup>, Director of the Office of Compliance, Risk Management and Ethics, agreed with Mr Webb, both of whom further indicated that this qualification had been made by their colleague Dr Egide Rwamatwara, Senior Human Resources Officer in the WHO's Regional Office for Africa.(AFRO).

64. The Independent Commission's investigators subsequently found that in an email dated 24 June 2019, Dr Egide Rwamatwara had written: "I confirmed to the Beni office manager that the lady is not a beneficiary of WHO services. Her age is not precisely determined. She has not presented her identity card to confirm her age [...] paternity is also disputed<sup>19</sup>."

65. When questioned in turn by investigators on 6 September 2021, Dr Egide Rwamatwara explained that he had written this message in response to questions put to him by Mr Andreas Mlitzke. Indeed, on 14 June 2019, Dr Rwamatwara sent an email to the Office of Risk Management and Ethics, copied to Mr Andreas Miltzke and Mr David Webb, regarding Dr Ngandu's case and which read: "Dear colleagues, please note that this case has recently been reported to us involving conduct that may amount to sexual exploitation and abuse, awaiting your advice on the way forward."

66. In response, Mr. Andreas Mlitzke sent a message to Dr. Rwatmatwara, copied to Mr. David Webb, which reads: "We take this very seriously and would appreciate further information: can it be determined whether "Grace" is a beneficiary of our policy on prevention and control of sexual exploitation and abuse, i.e. "people who work with and/or serve or seek to assist around the world, and who are generally in situations of vulnerability and dependency on WHO staff. Beneficiaries are individuals who are direct or indirect beneficiaries of a humanitarian/emergency or other WHO action, regardless of location. Among these individuals, women and children are particularly at risk of sexual exploitation and abuse."

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<sup>18</sup> Interview with Andreas Mlitzke

<sup>19</sup> Mr Rwamatwara explains: "I confirmed with the head of the office in Beni that the lady is not a beneficiary of WHO services. Her age is not precisely determined. She claims to be 17 years old but apparently in other papers she is 23. She did not present her identity card to confirm her age. She is HIV positive, but the consultant would not be, which means that she may not be the source of the infection. Paternity is also apparently in dispute

67. The Independent Commission is very surprised that Mr Andreas Mlitzke, who had a shared responsibility with the Office of Internal Investigations headed by David Webb for ensuring compliance within the organisation, felt it necessary to seek clarification from Dr Rwatmatwara on the legal interpretation of the term "beneficiary". The Independent Commission further notes that the Policy on Preventing and Combating Sexual Exploitation and Abuse does not make the opening of a preliminary investigation into suspected sexual exploitation and abuse conditional on whether or not the potential victim of sexual exploitation and/or abuse is a "beneficiary" of a WHO action. Incidentally, the term "*beneficiary*" is used at first sight only to distinguish it from the person who has an employee status in the organisation.

68. The Independent Commission therefore considers that, by striving to establish the status of "beneficiary" "Grace" when everything indicated the existence of indications of acts of sexual exploitation and abuse justifying the opening of a preliminary investigation against Jean-Paul Ngandu, Mr Andreas Mlitzke and Mr David Webb misinterpreted the spirit and the letter of the March 2017 Policy, which is guided above all by the principle of zero tolerance.

#### 4.2 Massive recruitment of workers without tenders and without checking precedents

69. In the opinion of Ms Betty Divine Itangishaka, Regional Compliance and Risk Management Officer, who conducted several compliance audits and reviews during the 10th response, the main cause of the accumulation of incidents of sexual exploitation and abuse is said to be the recruitment process of personnel during the 10th outbreak response. In particular, she explained that the recruitment process was not transparent with people being deployed "*without a specific mandate*"<sup>20</sup>.

70. As the Independent Commission has already pointed out, the response to the 10th surge has been a boon to many young people seeking employment. This resulted in a large labour supply that would have required a number of measures to make recruitment much more transparent, including the recruitment of local workers. The Independent Commission believes that such an objective could not be achieved without the establishment of a competitive recruitment process, especially for the recruitment of local workers. The Independent Commission notes, however, that local workers - who made up more than half

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<sup>20</sup> Interview with Ms Divine Betty Itangishaka



of the WHO personnel serving in North Kivu province - were recruited without competitive bidding, thus opening the door to possible abuses, including incidents of exploitation and sexual abuse, which have unfortunately been witnessed

71. The review team was also able to establish that many recruitments of locals were made without verification of precedents. Given the socio-political context of North Kivu and Ituri, marked by the presence of armed groups, Mr David Gressly, the UN coordinator for the response to the tenth Ebola epidemic, found this situation so worrying that he raised it with Dr Socé Fall, the AFRO Regional Emergency Director (RED)<sup>21</sup>.

72. The Independent Commission notes that the formality of checking precedents is envisaged in the March 2017 Policy as a measure to prevent sexual exploitation and abuse and as such is an essential step in recruitment. In this regard, the Independent Commission believes that an emergency, even one of the magnitudes of the response to the tenth Ebola outbreak, cannot justify the failure to comply with such an important formality in the recruitment of staff within the United Nations system.

73. Finally, the Independent Commission considers that it was up to the main people responsible for the emergency at the level of the Organisation, starting with Dr Socé Fall, in his capacity as , AFRO Regional Emergency Director (RED, Dr Michel Yao, in his role as Incident Manager and Dr Michael Ryan, in his capacity as Assistant Director-General, Health Emergencies, to take adequate measures in accordance with UN standards, including, for example, by requesting the assistance of MONUSCO or other UN agencies with mechanisms that are much better equipped and adapted to handle prevention and response to SEA in emergency settings”.

#### 4.3 Late and insufficient training in the prevention of sexual exploitation and abuse.

74. It is undeniable that the first trainings on prevention of sexual exploitation and abuse organised by WHO as part of the 10th response took place in November 2019, five months after the declaration of the Ebola outbreak as an international public health emergency on 17 July 2019. Considering the importance of building the organisation's capacity to better manage the risks of sexual exploitation and abuse incidents during these operations, it is fair to say that it took WHO a long time to get the required training underway for the 10th

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<sup>21</sup> Interview with Mr. David Gressly

response.

75. The review team also found that the trainings reached only a minority of WHO staff. Only 371 personnel<sup>22</sup> participated in the training. In this regard, it is worth recalling that 2800 staff were deployed under the auspices of WHO in the response to the tenth Ebola outbreak.

76. While WHO focal points on sexual exploitation and abuse regularly participated in training organized by the Community Monitoring Network or the UN Office of the Coordinator, the Independent Inquiry into Sexual Exploitation and Abuse found that the relatively low participation of staff in training, coupled with the low number of trainings, suggested a risk of incidents of sexual exploitation and abuse. The Independent Inquiry Committee believes this is evidenced by the fact that the majority of alleged perpetrators identified by the review team had not completed their training on the prevention of sexual exploitation and abuse.

77. The review team was also able to establish that the WHO has not done much to raise awareness of sexual exploitation and abuse among local populations either. And as one international NGO official who requested anonymity put it so well, *"it is often not clear whether what an individual is doing is illegal, unethical, or simply the accepted practice."* Hence the importance for WHO to keep the level of awareness of the risks of sexual exploitation and abuse among beneficiary populations as high as possible.

78. In conclusion, the Independent Commission regrets that more attention has not been paid to training, which remains one of the most effective tools for preventing sexual exploitation and abuse. Therefore, the March 2017 Policy on Preventing and Combating Sexual Exploitation and Sexual Abuse gives it a prominent place in its prevention framework.

4.4 The controversial handling of some incidents of sexual exploitation and abuse on the grounds that no 'complaint' was made

79. On 23 April 2019, a woman went to the WHO office in Beni to denounce Mr Jean-Paul Ngandu whom she accused of having made her pregnant. During the interview he gave to the investigators of the Independent Commission on 30 July 2021, David Webb, Director

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<sup>22</sup> Interview with Dr Ilham Nour; Information provided by WHO to the review team 'Queries Regarding PSEA Training during the Ebola Response' (DRCDRC0017-0000004).

of the Office of Internal Investigation Services of WHO stated that no investigation had been opened against Mr Ngandu because, among other reasons, no complaint had been filed against him.

80. The Independent Commission notes this systematic tendency to reject all reports of sexual exploitation and abuse unless they are made in writing. In this regard, the Independent Commission notes that while the 7 March 2017 Policy does give priority to reporting in writing, the Policy should be interpreted not only in letter but also in spirit. Indeed, also in line with the principle of zero tolerance, the aim of the Policy of 7 March 2017 can only be to encourage unhindered reporting of sexual exploitation and abuse. In this sense, writing cannot be the only possible form of reporting sexual exploitation and abuse. Indeed, if this was the understanding that one should have of the March 2017 Policy, it is not surprising that people like the woman who presented herself at the WHO office in Beni were excluded from the legal protection against sexual exploitation and abuse. For the Independent Commission, such an interpretation of the March 2017 Policy could only be arbitrary.

81. The Independent Inquiry therefore considers that some relevant WHO departments are wrong to make a written complaint a prerequisite for the opening of an investigation into allegations of sexual exploitation and abuse without taking into account the context in which the report is made.

82. The Independent Commission considers that in this case, the mere presence of the woman in the WHO premises in Beni to denounce Mr Jean-Paul Ngandu should be understood as a report within the meaning of the Policy of 3 March 2017 on the prevention and fight against sexual exploitation and abuse.

## 5. Conclusions

83. In its analysis, the Independent Commission reached the following conclusions :

### 5.1 Clear structural failures and unpreparedness to manage the risks of incidents of sexual exploitation and abuse

84. The evidence gathered by the review team suggests that the management of the response to the tenth Ebola outbreak has not been without its challenges for WHO, starting with the organisation's strategy for dealing with it. The organisation set up an emergency

management centre, managed by Dr Socé Fall, originally based in Brazzaville, who was deployed to the DRC to coordinate WHO's operations on the ground. He was assisted by Dr Michel Yao, also a Brazzaville based staff member, who was also deployed to the field as incident manager for the medical emergency response to the tenth Ebola outbreak.

85. In this regard, the Independent Commission notes that the WHO Representative Office in the DRC, which works on a daily basis with the Congolese government on public health issues, was not really involved in the management of the emergency, other than in an accompanying role. However, the Independent Commission is of the opinion that greater involvement of the WHO Representative Office in the DRC would probably have made it possible to better manage certain risks intrinsic to operations taking place on Congolese territory, including the risk of incidents of sexual exploitation and abuse. Indeed, the Independent Commission notes that, when informed of incidents of sexual exploitation and abuse, managers in the field systematically turned to their colleagues in Geneva to seek their advice on the attitude to adopt<sup>23</sup>.

86. As incidents of sexual exploitation and abuse have a significant psychological dimension, the Independent Commission believes that decentralisation of some of the Department of Compliance, Risk Management and Ethics (CRE) and Ethics and the Office of Internal Oversight Services (OIS) would certainly have allowed for a more timely and appropriate response by the organisation to incidents of sexual exploitation and abuse and better consideration of the situation of victims.

87. The Independent Inquiry also notes that WHO appointed 9 focal points to provide the 2800 staff deployed in the field with the necessary support in raising awareness of the risks of sexual exploitation and abuse, a ratio of one focal point for every 311 staff. Given, moreover, that these focal points combined their function with other tasks, it is not surprising that the prevention of sexual exploitation and abuse had so little impact in reality.

## 5.2 Individual negligence that may amount to professional misconduct

88. The Independent Commission proposes to analyse the behaviour of a number of staff involved in the management of incidents that may fall into the category of sexual exploitation

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<sup>23</sup> Email From Dr Otim to Dr Caroline Cross, Director Staff Health and Wellbeing 2 May 2019-

or abuse.

89. The Independent Commission notes that as soon as he was informed of the facts relating to Dr Jean-Paul Ngandu, Mr Mory Kéita immediately informed his supervisor Mr Michel Yao by email dated 23 April 2019. In the interview he gave to the investigators of the Independent Commission, Dr Michel Yao said that he had not had time to inform his hierarchy directly, as he was busy managing the medical emergency and the security situation in the aftermath of the murder of a colleague who was also deployed in Beni as part of the 10th response. He added that this murder had dealt a serious blow to the morale of WHO staff under his supervision. He said he had however instructed Dr Mory Kéita to inform Geneva about the incident involving Dr Ngandu.

90. The review team was also able to establish that by an email dated 19 May 2019, Mory Kéita informed Michel Yao that an amicable agreement had been reached between Dr Ngandu and his accuser. It is also established that Dr Ngandu was notified of the non-renewal of his contract beyond 31 May 2019. The agreement in question was often put forward by some officials at the Organisation's headquarters, including David Webb, to justify not opening an investigation against Dr Ngandu.

91. The Independent Commission recalls in this respect that the March 2017 Policy does not envisage a friendly settlement as a means of resolving disputes arising from acts of sexual exploitation and abuse, nor does it make the non-renewal of an employment contract a reason for terminating proceedings that may have been initiated against an individual on whom there are suspicions of sexual exploitation and abuse.

92. The Independent Commission further notes that in his interviews with the Independent Commission's investigators, Mr Andreas Mlitzke stated that he was only informed of the incident involving Dr Jean-Paul Ngandu on 14 June 2019. It is around the same time that David Webb says he was also informed.

93. The Independent Commission notes, however, that by email dated 2 May 2019, Marie Caroline Cross, working in human resources, communicated to Andreas Mlitzke the message she received on the same day from her colleague Henry Otim, which contained the following statement

"Allegations have been made that fall under the definition of sexual exploitation and abuse among some staff involved in the response to Ebola in the DRC, North Kivu."

94. For the Independent Commission, this message was sufficiently explicit and was in fact the first report of incidents of sexual exploitation and abuse involving WHO staff during the response to the tenth Ebola outbreak. It therefore considers that the Organisation was aware of these incidents already in early May 2019 and not in mid-June 2019 as argued by Andreas Mlitzke and David Webb.

95. The Independent Commission also recalls that the provisions of the March 2017 Policy are binding not only on individuals but also on the Organisation, which must take a proactive approach in dealing with reports of incidents of sexual exploitation and abuse. It therefore regrets that Andreas Mlitzke, by way of response to his colleague Henry Otim, only saw fit, in his email of 2 May 2019, to recall the various applicable policies without seeking to find out more about the reported incidents. As a reminder, the denunciation in the Ngandu case was made on 23 April 2019, 10 days before Henry Otim's message.

## **B. Axis 2 of the Independent Commission's mandate**

96. The Independent Commission will first recall its mandate under this heading. It will then set out the various objective parameters taken into account in its analysis. It will then report on its findings before sharing its conclusions and recommendations.

97. The Independent Commission was also mandated to conduct and coordinate investigations into specific allegations of sexual exploitation and/or abuse against World Health Organization (WHO) staff and its partners or contractors during the response to the 10th Ebola outbreak in North Kivu and Ituri. Following the approach taken in axis 1 of its mandate, the Independent Commission relied on the investigative work undertaken in the field by the review team and on the documentation made available to it.

### **1. Objective evaluation parameters**

98. By objective assessment parameters, the Independent Commission refers to some relevant WHO normative provisions on sexual exploitation and abuse as well as case law precedent to better understand one of the issues at stake.

1.1 The relevant provisions of the March 2017 Policy on preventing and combating sexual exploitation and sexual abuse

99. The Independent Commission used the definitions of sexual exploitation and abuse as set out in the March 2017 Policy on the Prevention of Sexual Exploitation and Abuse and the Code of Ethics and Professional Conduct.

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

101. The Policy also states that sexual relations with a child, in any context, also fall within the scope of sexual exploitation and abuse, with a child being defined as "a human being below the age of eighteen years".

1.2 The notion of "coercive circumstances" as defined by the International Criminal Tribunal for the former Yugoslavia

102. In the case of Prosecutor v. Gacumbitsi of 7 July 2006<sup>24</sup>, the Appeals Chamber of the International Criminal Tribunal for Rwanda (ICTR), sitting in The Hague and ruling on a case of rape, came to the following conclusion :

*"The prosecution may prove non-consent beyond a reasonable doubt by proving the existence of coercive circumstances in which meaningful consent is not possible. As with each element of any offence, the Trial Chamber will consider all relevant and admissible evidence to determine whether, in the circumstances of the case, it is appropriate to conclude that non-consent is proven beyond a reasonable doubt. But there is no legal requirement that the prosecutor present evidence about the victim's words or conduct or the victim's relationship with the perpetrator. Nor does it need to introduce forcible evidence. On the contrary, the Trial Chamber is free to infer non-consent from the circumstances."*

103. Although the crimes the Hague judges were dealing with were different in their nature, the Independent Commission still considers that it can rely on the findings of the ICTY

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<sup>24</sup> Prosecutor v. Gacumbitsi, ICTR Appeals Chamber, ICTR-2001-64-A, 7 July 2006, para. 155.



judges in the analysis of the specific cases mentioned below.

## 2. Analysis of the testimonies of the alleged victims

104. Some of the stories of alleged victims that the Independent Commission considers emblematic are recorded below, as they emerged from the field investigations.

105. In the course of its investigations, the review team was able to establish that alleged victims were promised jobs in exchange for relationships or were sexually exploited in order to keep a job with the response. This is the case, for example, of “Nadira”, who worked in Beni as an archivist and later with the logistics commission, and who told the Independent Commission's investigators the following :

*"I didn't notice that 'poking' meant having sex until February 2019, when I wanted to complain about my salary not being paid. [...] To get ahead in the job, you had to have sex [...] Everyone had sex in exchange for something. It was very common. I was even offered sex if I wanted to get a basin of water to wash myself in the base camp where we were staying during the retaliation”.*

106. The incidents reviewed by the review team cover the entire period of the 10th Ebola response, from August 2018 to the end of June 2020, with the majority occurring during 2019. Most of the alleged victims interviewed provided the review team with indications of the precise locations where these incidents took place and information on approximate dates, although some victims did not always have exact recollection of these dates without this calling into question the credibility of their testimony.

107. The Independent Commission notes that the incidents of sexual exploitation and abuse examined were recorded in the main areas of the response, including 25 reported in Mangina, 25 in Beni, 20 in Butembo, 4 in Bunia, 3 in Komanda, 3 in Mambasa, 1 in Biakato, 1 in Oicha, 1 in Katwa and one in Kalunguta. In several of the cases brought to the attention of the review team, the alleged victims stated that the acts of sexual exploitation and abuse took place in hotels, and in some cases they took place in the houses rented by the alleged perpetrators.

108. The majority of the alleged victims heard by the review team were women. In total, the review team received testimony from 63 women and only 12 men, ranging in age



from 13 to 43 years and with an average age of around 20 years. "Jolianne ", the youngest of the alleged victims explained that she was selling phone recharge cards on the side of the road in April 2019 in Mangina when she was approached by a WHO driver who offered her a ride home. Instead, he took her to a hotel where she says she was raped by this person. As a result of this rape, she became pregnant and had a child, which affected her family relationships. As for 'Séverine', she was 43 years old in September 2019 when a man posing as a WHO employee invited her to meet him at the Viaka Hotel to discuss the possibility of her being employed in the Ebola response awareness committee. Once in the room, he told her that she had to have sex with him first before being hired. Despite her refusal, she said she was raped by him. She further claimed that she got the job the next day but ended up resigning because her attacker continued to sexually harass her.

109. The review team was also able to establish that the majority of the alleged victims were in a very precarious economic and social situation during the response. Indeed, very few of them were able to complete their secondary education, and some had never set foot in school. For example, "Clarette" told the review team that after she became pregnant as a result of what they believe to be sexual exploitation and abuse, her parents stopped funding her education. "Sikudhani" also told investigators that she had to stop her studies when she became pregnant as a result of what she also believes to be sexual exploitation and abuse.

110. For some of the alleged victims, working for the response represented a unique opportunity in a region where employment opportunities, especially for women, are extremely rare. The economic insecurity and precariousness were so great that for them the need to get a job outweighed everything else, including the coercion to have sex in exchange for the promise of a job. For example, "Lina" told investigators that she had resisted for two months the advances of a response administrator in Butembo who had promised her a job as a hygienist, but that she had finally given in to his sexual advances because her other job had ended, and she needed money to support herself and her four children. She said that she did not even dare to ask him to use a condom for fear that he would refuse to have sex with her and that she would not get the job.

111. In 2018, "Grace", who lived in Beni, was selected for training on Ebola prevention and response. The training took place at the Vihum Hotel in the Mabakanga district. One of the trainers told the participants that the person with the highest marks at the

end of the training session would be selected for a job. Being sure that she had done very well in the test, she contacted this trainer after the event to find out her grades, and they communicated several times by phone. In January 2019, he invited her to visit him. She was earning \$40 a month at the time. He told her that in order to get a job with the retort, she would have to agree to have sex with him. "Grace" testified before investigators that she agreed because she really needed the money.

112. The review team also found that women with more experience, greater economic independence and stronger social support structures were better equipped to resist unwanted sexual advances. For example, "Madeleine", a law graduate, also had professional experience. While looking for a job, she ended up in the hotel room of a WHO security officer in Butembo who tried to have sex with her, but she managed to escape. The review team was able to identify the alleged perpetrator of this act of sexual abuse from the details provided by the victim.

113. As for "Marie", she had been called when she was in a field near Mangina. A man who introduced himself to her as a WHO driver - and whom the review team successfully identified as such - asked her if she wanted to work in the response. When she said yes, he told her that she would get the job in exchange for sex. Not only did she get pregnant, but she never got the promised job. "Delphine" was on her way to the market in Butembo when she was stopped by a passing vehicle, driven by a man who told her that he could get her a job with the retort. They met later that day in a cafeteria and had sex that evening. She told the investigation team that the respondent was working with the burial commission. After checking, investigators found that the respondent's identity matched that of a contractor to the burial commission.

114. Information gathered by the review team also suggests that some acts of sexual exploitation and abuse were organised within a network of staff operating through the local recruitment arm of the response coordination centre. "Jeanne", for example, said that she went in person to the Ebola Coordination Centre in Mangina to look for a job as a cleaner. She was told to leave her name and number in case a position became available. She was then called by a friend of the manager who had registered her at the coordination centre. She only got the job in return for having sex with the friend of the manager who had recruited her.

115. The vast majority of the alleged victims the review team met did not get the jobs they were promised despite having consented to sex. And for those who were hired, the employment was often short term, as was the case for "Jeanne" who only worked for a fortnight. Among the women who indicated that they had obtained a job, the name "Armèle" does appear on the WHO list of service providers.

116. Some women, who indicated that they were already employed, told the review team that they continued to be sexually harassed by men in supervisory positions who forced them to have sex with them in order to keep their jobs, get paid or get a better paid position. Some reported that they had been dismissed for refusing to have sex.

117. The review team recorded a total of nine allegations of rape. For example, "Séverine" from Beni told the review team that she had met a WHO official and that on 17 September 2019, he invited her to the Viaka Hotel to discuss the possibility of working at the Outreach Commission. In the room, he offered to have sex with her and when she refused, he coerced her. The results of the review team's investigations suggest that while the alleged perpetrator was not strictly an employee of the organisation, he was at least a service provider to WHO.

118. Some alleged victims reported that no protection was used during sex. In some cases, the alleged perpetrator of sexual exploitation and abuse refused to use a condom. Six alleged victims claimed to have suffered miscarriages. Other alleged victims told investigators that some of the men who abused them also coerced them into having an abortion when they became pregnant, if necessary, by giving them drugs or even injections.

119. However, the review team also interviewed men (12), including two Congolese men who explained the effects of sexual exploitation and abuse on their marriages and families, and who also believe they were victims of SEA. Many of the allegations analysed by the review team concern women and girls who became pregnant as a result of SEA (29 cases), the majority (22 cases) having carried their pregnancies to term.

### 3. Suspected perpetrators identified

120. Based on information gathered from alleged victims and other witnesses, the review team proceeded to identify the alleged perpetrators. The review team not only

compared the list of WHO staff deployed in the field, but also extended its search to all WHO partners and contractors during the response.

121. The review team was able to obtain the identity of 83 alleged perpetrators. In 21 cases, the review team was able to establish with certainty that the alleged perpetrators were WHO employees during the response. This was verified through human resources records, organisational charts and emails. The alleged perpetrators include both Congolese nationals and foreigners. The majority of the alleged perpetrators were Congolese staff hired on a temporary basis who took advantage of their apparent authority to obtain sexual favours.

122. The review team was also able to interview eight of the alleged perpetrators in order to get their version of events. Six of them denied any involvement in acts of sexual exploitation and abuse. These included Mr Alpha, Mr Beta, Mr Gamma, Mr Epsilon, Mr Jupiter, Mr Mars, while two, Mr Romeo and Mr Neptune, told investigators that the relationship with the alleged victims had been consensual.

123. Allegations of SEA and sexual harassment were made against WHO doctors, consultants and senior staff, some national and some international, as well as other medical staff who were deployed by the Ministry of Health and others. For example, in Beni, the team examined the case of Dr Jean Paul Ngandu, which resulted in the signing of an "amicable settlement"<sup>25</sup>. In Butembo, for example, *'Valerie'*, a young woman who had been working in a poorly paid administrative position, had trained as a nurse and was trying to obtain a higher, better-paid nursing position. An expatriate doctor, whom the review team managed to identify as a WHO epidemiologist (Mr Gamma), told her that she had to become his girlfriend to get the job. When she rejected his advance, she did not get the job. *"Isala"* informed the review team that she was working at the Butembo surveillance commission. Her boss, a doctor working at Butembo General Hospital for WHO, told her that she had to give him half her salary or have sex with him to get the job. She paid him for four months, before finally complaining to her superiors. The payments stopped but the doctor was never sanctioned and continued to harass her. In the case of *'Lisianne'*, who worked for WHO in Komanda, told the review team that she had been asked for sex by a WHO expatriate doctor. The review team was able to verify his identity as Mr Beta who was also deployed to Komanda as an

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<sup>25</sup> Dr Jean Paul Ngandu denies having impregnated her but agreed to compensate her by paying her an annuity until she gave birth and by buying her land. DRCD2000-000008.

epidemiologist, and the fact that "Lisianne was working well for the response. "Lisianne" recounted that "[he] insisted and threatened to make me lose my job if I did not agree to have sex with him. [...] I finally gave in to his solicitations so I wouldn't lose my job. She explained that after a first sexual encounter in December 2019 in a hotel, he coerced her again in February 2020 for another sexual encounter, which she had to comply with as he was still threatening to make her lose her job. She became pregnant and when she told him about her condition, he gave her abortion pills. "Preciose" told the review team that in September 2019, she joined the group of hygienists who were working for the care commission in Komanda. She was approached by a doctor from Kinshasa who worked for WHO (Mr Mars) to have sex. She explained that he was initially at the CTE in Butembo and had come to Komanda as a trainer in infection prevention and control (IPC): "When I refused his advances, he started following every detail of my work, as if to take revenge for the fact that I refused to have sex with him. The purpose of this was to detect the slightest mistake on my part in order to punish me. In particular, he monitored my arrival times at work and every time I arrived late, he made me go home with the day's wages withheld. He sent me several messages on WhatsApp saying he loved me and was tired of sleeping alone in Komanda. One night he sent me a shirtless picture of himself. The review team was able to identify the alleged perpetrator in this case.

124. Accusations of sexual exploitation and abuse have also been made against staff in the immunisation and risk communication team. "In November 2019, she met an expatriate WHO staff member (Mr Teta) who worked in the community surveillance team and whom the review team identified, even though he had given his victim a false name. He told her that he could get her a better paying job working in the vaccination team for a salary of \$600 but on condition that she had sex with him. As she needed the money, she was forced to accept. Their relationship continued and she had sex with him seven times, always with the idea that this would get her a job on his team. She says she never got the job. "Fabienne", who worked in Komanda and Bunia during the response, told investigators that on her return to Bunia she was assigned to a vaccination and communication team. In February 2019, she met an expatriate WHO staff member who was working on risk communication. He congratulated her on her work and told her that she should come and work for WHO. On another occasion, in early March 2019, he told her that he was planning to give a presentation at the school where she had previously studied and suggested that she go to his flat to work together on her

presentation. There he tried to convince her to have sex with him: *'He came up from behind before putting his arms around me, pulling me. We walked towards the room like this, until we reached her room.* The review team was able to establish that the official was working for WHO during the response and went by the name of Mr Pluton.

125. There have been accusations against people who have functions within human resources, or who have pretended to have such functions, in particular against people in charge of recruiting local day labourers and short-term subordinate workers. For example, in February 2020, *'Paulette'* went to the Mangina referral centre to see if she could find work. The centre was located at St Mathias Mulumba Parish. People went every morning to stand outside the door of the centre to try to get work. At about 4pm, a man who worked there pulled her and another woman aside and asked them for their phone numbers so he could call them to give them work. They were eventually called and told to meet the man at a hotel to discuss the possibility of a job. Once at the hotel, they met the man in question who was accompanied by another man. While the four of them were talking, the two men took their phones from the table. "They told us that if we wanted our phones, we should go and get them from their room. We stayed on the veranda for quite some time until we decided to go and get our phones from the rooms." Once in the room, *'Paulette'* says she was forced to have sex and became pregnant as a result. The review team was able to establish the identity of the man, who goes by the name of Delphin Mubanga, and who was a security guard at Mangina.

126. A number of allegations of SEA have been made against suspected drivers. Allegations of SEA and sexual harassment were also made against security staff. For example, "Caroline" who was working in Butembo with WHO told the review team that when she arrived at WHO she met a member of security. "The very first day after I signed my contract, during the security briefing, he was already making advances to me. I didn't accept but he kept on going and wouldn't give up. She went to his house to explain that he had to stop. At home, he came at her with a knife and beat her severely. She started screaming, which alerted his roommate who tried to intervene. Eventually she managed to get out of the flat. The investigation team was able to determine the identity of her attacker (Mr. Jupiter) and his roommate: "Madeleine" was lured into the hotel room of a man who introduced himself as the number 1 of the WHO security service in Butembo. The examination team identified him, but he was actually a security assistant (Mr Romeo)

127. The review team also noted that staff turnover was high, with individuals regularly transferred to other offices and outposts to meet the operational needs of the response. It was not uncommon for alleged victims to suddenly learn that the alleged perpetrator, who had not yet fulfilled his promise of employment or who had just learned that the victim had become pregnant, had been transferred to another location and was no longer reachable, with some suspects even blocking their phones, as was the case for "*Marie*", "*Sikudhani*", "*Lwiza*" and "*Delphine*". These women were left helpless in the face of this situation.

128. The review team was also able to determine that while some women were victims of SEA or attempted SEA on multiple occasions during the response as discussed in the previous section, some alleged perpetrators appear to have committed or attempted to commit SAE on multiple occasions against different alleged victims. This is the case for the alleged perpetrators of SAEs against 'Esther and 'Fabienne - Mr Alcius et Mr respectively.

129. The Independent Commission wishes to clarify that this is not an exhaustive list of alleged victims or perpetrators. In this regard, it is worth noting that the Independent Commission continues to receive reports of alleged sexual exploitation and abuse during the 10th Ebola response.

#### 4. Conclusions

130. Despite the various harrowing accounts of alleged victims detailed above, the majority of alleged and identified perpetrators have simply denied the facts, even in the presence of corroborating evidence, when they have not simply taken refuge behind the argument of a "*consensual relationship*".

131. The Independent Commission notes the scale of incidents of sexual exploitation and abuse in the response to the 10th Ebola outbreak, all of which contributed to the increased vulnerability of "alleged victims" who were not provided with the necessary support and assistance required for such degrading experiences.

132. The Independent Commission also notes that the cases of sexual exploitation and abuse identified by its review team were committed by both national and international personnel working on behalf of WHO during the response to the tenth Ebola outbreak.



- Perception of impunity of the institution's staff on the part of alleged victims

133. The Independent Commission notes the disparity between the number of alleged victims of sexual exploitation and abuse who came forward during investigations and the total absence of reports of sexual exploitation and abuse at the institutional level during the reporting period. This could be explained by the lack of responsiveness to the expectations of victims of sexual exploitation and abuse, particularly in terms of opening investigations and taking into account the seriousness of the phenomenon from the first reports, including the incident involving Dr Jean-Paul Ngandu. Sometimes this is because the victim does not see how it will help them resolve their situation. The consequences of reporting may be perceived as too negative compared to any benefit it would bring.

134. In addition, observations from the review team's interviews with key officials in the organisation show that the organisation, focused primarily on eradicating the Ebola epidemic, was completely unprepared to deal with the risks/incidents of sexual exploitation and abuse. It is therefore not surprising that it was totally unprepared for the scale of sexual exploitation and abuse incidents during the 10th response.

- The vulnerable state of some alleged victims and the limited support they received

135. The Independent Commission notes that many alleged victims have complained that they have not received assistance and that they have been left to deal with the physical and moral consequences of the sexual exploitation and abuse they have suffered. And in view of the way in which some of the alleged and identified perpetrators are said to have behaved - some even administering abortion pills to some of the women - the Independent Commission considers it imperative that these alleged victims receive immediate medical assistance to deal with the consequences of the trauma they have suffered.

- Local and international workers all in the same boat

136. The Independent Commission makes this observation in the light of the list of alleged perpetrators identified, which clearly indicates that the phenomenon of sexual exploitation and abuse was not confined to one group. Indeed, all categories of workers, both national and international, regardless of their contractual status, engaged in acts that could be described as sexual exploitation and abuse.



## V. Recommendations

The following recommendations are made to the WHO in the following areas:

### **137. Strengthened and effective policies and procedures to prevent and respond to sexual exploitation and abuse:**

WHO needs to ensure that policies and procedures on preventing and responding to sexual exploitation and abuse are implemented effectively by adapting them to the operational context.

This will require:

- Bridging gaps in culture and approach between different departments of the organisation as well as between headquarters and field operations ;
- Define more clearly the lines of authority of decision making within the organisation in relation to preventing and responding to acts of sexual exploitation and abuse committed by anyone working on behalf of the Organisation ;
- Allocate a substantial budget and qualified staff to ensure the success of initiatives and awareness-raising campaigns among the organisation's staff on the prevention of and response to sexual exploitation and abuse ;
- Include in any future field emergency management team, as a primary rather than a secondary function as is currently the case with the appointment of focal points, a specialist on issues of prevention and response to sexual exploitation and abuse.

### **138. Incident management system for preventing and combating sexual exploitation and abuse:**

**In this respect, it will be:**

- Undertake a review of the WHO emergency response framework and emergency standard operating procedures to reflect the obligations of the organisation and staff in preventing and responding to sexual exploitation and abuse ;
- Integrate the concept of prevention and response to sexual exploitation and abuse into all levels of design and implementation of health emergency programmes ;
- Undertake a comprehensive sexual exploitation and abuse risk analysis prior to deployment and adapt it as the programme is implemented ;

- Integrate qualified teams on prevention and response to sexual exploitation and abuse into all management structures of complex field operations ;
- Focus awareness raising work on preventing and combating sexual exploitation and abuse on the most vulnerable people in the host communities and in particular on women and children.

**139. Ongoing awareness-raising among affected communities:**

- Ensure that host communities are constantly informed about acts of sexual exploitation and abuse and reporting systems;
- Ensure a decentralized management of the hotline in emergency situations.
- Align WHO policies on SEA to UN broad policies on protection of civilians

**140. Continuous training in the prevention of and fight against sexual exploitation and abuses :**

- Make the successful completion of a knowledge test on prevention and response to sexual exploitation and abuse a *prerequisite* for the deployment of staff to emergency areas, whether they are staff of the organisation, consultants, contractors or other service providers;
- Undertake a regular evaluation of the reporting policy to ensure that it is not only effective, but also that a much larger number of incidents of sexual exploitation and abuse can be investigated as a *minimum*;
- *Impose* disciplinary sanctions on those who fail to report incidents that may fall into the category of sexual exploitation and abuse.

**141. Investigation system for preventing and combating sexual exploitation and abuse:**

- Systematically initiate preliminary investigations at the first suspicion that sexual exploitation and abuse may have occurred in the course of an operation or activity undertaken by the organisation, without reaching a specific individual complaint;
- Immediately initiate an internal investigation, in this case, to identify individual responsibilities for the failure to activate the investigation procedures provided for in the March 2017 Policy;

- Immediately open investigations, in this case, against the alleged perpetrators identified and those who will be identified in the course of the said investigations, in order to assess their responsibility with regard to the standards and principles applicable to the prevention and fight against sexual exploitation and abuse, and above all with regard to the provisions of the March 2017 Policy, and to apply to them the disciplinary sanctions provided; that these investigations will concern the organisation's current staff as well as those who left the organisation but who were among the staff deployed by the organisation during the 10th Ebola response.

**142. Access to assistance and the right to reparation for presumed victims:**

- Set up a working group within the organisation to reflect on the modalities of support and psychological assistance for presumed victims from the first reports of incidents until the conclusion of preliminary investigations;
- Also mandate this working group to reflect and make proposals on the possibilities of granting reparations to the victims following duly conducted investigations, starting with the conclusions of the Independent Commission in this case;

**143. Initiation and follow-up of DNA testing:**

- Take the necessary step to undertake reliable DNA testing in coordination with the for cases where UN Secretariat's OIOS alleged victims have become pregnant and alleged perpetrators have been identified and communicate the results of such testing to the alleged victims to assert all their rights and those of their children. Those DNA testing should be equally extend to the children too.

## VI. Final recommendation

- Establish within two months of the publication of this report, an independent monitoring mechanism for the implementation of the Independent Commission's recommendations.

End/

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