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His Excellency Paul Kagame
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Your Excellency:

I write on behalf of the Association of the Bar of the City of New York (the Association) concerning reports¹ of the Rwandan Government's recruitment of children under the age of 18 to support troops of the M23 rebel forces in the Democratic Republic of the Congo (the DRC). Such conscription of child soldiers would contravene international and regional human rights laws, humanitarian law and the national laws of Rwanda.

The Association is an independent non-governmental organization of more than 23,000 members in over 50 countries. It has a long history of dedication to human rights, most notably through its Committee on International Human Rights, which investigates and reports on human rights conditions around the world. The Association's Committee on African Affairs monitors and responds to legal and policy developments in Africa and through its Subcommittee on Child Soldiers addresses legal issues that impact upon children who are recruited for military purposes. The Association's Children and the Law Committee addresses legal issues that impact upon the quality of life for children and families, and the Military Affairs and Justice Committee addresses legal and policy issues affecting the armed services and military service.

Rwanda's conscription of children under 18 has been documented by various sources, including in the report of the U.N. Group of Experts on the Democratic Republic of the Congo to the President of the U.N. Security Council, on which Rwanda holds a non-permanent seat.² According to interviews with ex-M23 combatants, Rwandan nationals under the age of 18 have been recruited in Rwanda to join the M23 forces. These children reportedly have been armed and

¹ See, e.g., *Addendum to the Interim Report of the Group of Experts on the Democratic Republic of the Congo (S/2012/348) Concerning Violations of the Arms Embargo and Sanctions Regime by the Government of Rwanda*, §§ I(2), II(B)(18)-(19), available at http://www.un.org/ga/search/view_doc.asp?symbol=S/2012/348/Add.1; Human Rights Watch, *DR Congo: M23 Rebels Committing War Crimes, Rwandan Officials Should Immediately Halt All Support or Face Sanctions* (Sept. 11, 2012), available at <http://www.hrw.org/news/2012/09/11/dr-congo-m23-rebels-committing-war-crimes>.

² *Addendum to the Interim Report* §§ I(2), II(B)(15)-(19), http://www.un.org/ga/search/view_doc.asp?symbol=S/2012/348/Add.1.

provided minimal training before being sent into combat, taking a direct part in hostilities.³ Human Rights Watch has reported that Rwandan military officials have continued to forcibly recruit boys in Rwanda, including those under the age of 15, to augment the M23's ranks.⁴ Based on interviews with witnesses and victims, it is estimated that at least 600 young men and boys have been unlawfully recruited in Rwanda to join the M23 rebels. Many of the M23 escaped recruits from Rwanda said that their training had been conducted by Rwandan army soldiers.⁵

International law, including the Convention on the Rights of the Child⁶ and the International Labor Organization Convention on the Worst Forms of Child Labor,⁷ both ratified by the Government of Rwanda, prohibit the recruitment and deployment of children in hostilities, whether in the armed forces of a State or in armed groups that are distinct from the armed forces of a State. The Convention on the Rights of the Child provides that "States Parties shall take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take . . . part in hostilities"⁸ and "refrain from recruiting any person who has not attained the age of fifteen years."⁹ The Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict,¹⁰ which the Government of Rwanda has acceded to, prohibits the forcible recruitment by governments of children below the age of 18 in their armed forces and requires States Parties to "take all feasible measures to prevent such recruitment" by "armed groups that are distinct from the armed forces of a State."¹¹ The Convention on the Worst Forms of Child Labor requires States Parties to take effective measures to prohibit and eliminate the worst forms of child labor, including the recruitment of children in armed conflict.¹² Protocol

³ *Id.*

⁴ *DR Congo: M23 Rebels Committing War Crimes*, at 2, available at <http://www.hrw.org/news/2012/09/11/dr-congo-m23-rebels-committing-war-crimes>.

⁵ *DR Congo: M23 Rebels Committing War Crimes*, at 6, <http://www.hrw.org/news/2012/09/11/dr-congo-m23-rebels-committing-war-crimes>. A 17-year old Rwandan boy who was allegedly recruited in Rwanda said, "There are lots of children . . . now, and they send us to the front lines so we're the first to die. It's as if they take us to kill us." *Id.* at 8, <http://www.hrw.org/news/2012/09/11/dr-congo-m23-rebels-committing-war-crimes>.

⁶ The *Convention on the Rights of the Child* adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 on November 20, 1989 and entered into force on September 2, 1990. Rwanda ratified the *Convention* on January 24, 1991. See <http://www2.ohchr.org/english/law/crc.htm>.

⁷ *Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor*, *ILO Convention No. 182* adopted on June 17, 1999. Rwanda ratified *ILO Convention No. 182* on May 23, 2000. See <http://www.ilo.org/public/english/standards/relm/ilc/ilc87/com-chic.htm>.

⁸ *Convention on the Rights of the Child*, Art. 38 § 2, <http://www2.ohchr.org/english/law/crc.htm>. The age limit was later raised to 18 by the *Optional Protocol*, Art. 4 § 1. See *Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict*, available at <http://www2.ohchr.org/english/law/crc-conflict.htm>

⁹ *Convention on the Rights of the Child*, Art. 38 § 3, <http://www2.ohchr.org/english/law/crc.htm>.

¹⁰ *Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict*, adopted and opened for signature, ratification and accession by General Assembly resolution A/RES/54/263 on May 25, 2000 and entered into force on February 12, 2002. Rwanda acceded to the *Optional Protocol* on April 23, 2002. See <http://www2.ohchr.org/english/law/crc-conflict.htm>.

¹¹ *Optional Protocol*, Art. 2 and Art. 4 § 1, <http://www2.ohchr.org/english/law/crc-conflict.htm> ("States Parties shall ensure that persons who have not attained the age of 18 years are not compulsorily recruited into their armed forces").

¹² *ILO Convention No. 182*, Arts. 1, 3(a), <http://www.ilo.org/public/english/standards/relm/ilc/ilc87/com-chic.htm>.

II of the Geneva Convention,¹³ acceded to by Rwanda, states that children under 15 years of age shall not be recruited in the armed forces or groups or allowed to take part in hostilities.¹⁴

The African Charter on the Rights and Welfare of the Child, which Rwanda has ratified, provides that States Parties shall refrain from recruiting any child,¹⁵ defined as a person below the age of 18 years.¹⁶ Rwandan law also prohibits military service for children under 18 years,¹⁷ and defines as a war crime “forcing children under 18 years to take part in hostilities.”¹⁸

Rwanda has adopted strong policies to protect the rights of children within its borders.¹⁹ To ensure that these policies are implemented in practice and honor Rwanda’s legal obligations under international, regional and national laws, the Association urges the Government of Rwanda to immediately cease any recruitment of children for military purposes whether as part of its armed forces or to serve in non-state forces.

Respectfully yours,



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¹³ *Protocol Additional to the Geneva Conventions of August 12, 1949 and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II)*, Geneva June 8, 1977. Rwanda acceded to *Protocol II* on November 19, 1984. See <http://www.icrc.org/ihl.nsf/FULL/475?OpenDocument>.

¹⁴ *Protocol II*, Art. 4 § 3(c), <http://www.icrc.org/ihl.nsf/FULL/475?OpenDocument>.

¹⁵ *African Charter on the Rights and Welfare of the Child*, Art. 22 § 2, CAB/LEG/24.9/49 (July 11, 1990) (entered into force on November 29, 1999). Rwanda ratified the *African Charter* on May 11, 2001. See <http://www.unhcr.org/refworld/docid/3ae6b38c18.html>.

¹⁶ *African Charter*, Art. 2, <http://www.unhcr.org/refworld/docid/3ae6b38c18.html>.

¹⁷ Rwanda Law No. 27/2001 *Relating to Rights and Protection of the Child Against Violence* Rwanda Law *Relating to Rights and Protection of the Child against Violence*, Art. 19 (Apr. 28, 2001), available at <http://www.unhcr.org/refworld/docid/46c423cb2.html>.

¹⁸ Rwanda Law No. 33n bis/2003 *Repressing the Crime of Genocide, Crimes against Humanity and War Crimes*, Art. 10 § 8 (Sept. 3, 2003), available at <http://www.unhcr.org/refworld/docid/46c4597c2.html>.

¹⁹ *The African Report on Child WellBeing 2008 – How child-friendly are African Governments?*, Executive Summary, available at http://www.ancefa.org/IMG/pdf/African_Report_on_Child_Wellbeing_2008.pdf.

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