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2019 Trafficking in Persons Report: Democratic Republic of the Congo

CONGO, DEMOCRATIC REPUBLIC OF THE: Tier 3

The Government of the Democratic Republic of the Congo (DRC) does not fully meet the minimum standards for the elimination of trafficking and is not making significant efforts to do so; therefore the DRC remained on Tier 3. Despite the lack of significant efforts, the government took some steps to address trafficking, including repatriating several trafficking victims and convicting two complicit officials for child soldier recruitment. The government continued efforts to certify mines to prevent the use of forced and child labor. In partnership with international organizations, the government also continued to undertake measures to prevent and end the use of child soldiers, including separating child soldiers from armed groups, conducting age verification screening of recruits, and securing written pledges from fourteen armed group commanders to renounce child recruitment. For the fourth consecutive year, there were no cases of child recruitment by the Congolese National Army (FARDC). While the government did not establish a formal anti-trafficking inter-ministerial committee during the reporting period, they undertook concrete steps by drafting a decree and consulting with various stakeholders on institutional reforms to address trafficking. However, during the reporting period, there were two cases, verified by an international organization, of the FARDC using—and subsequently removing—children in support roles, including for sexual slavery and forced labor. There were reports that the FARDC collaborated with proxy militias that recruited and used child soldiers. As in previous years, the government did not comprehensively report on efforts to identify, refer, or assist victims of sex and labor trafficking more broadly and did not make vigorous law enforcement efforts directly targeting labor trafficking crimes beyond child soldiering offenses. Although the government filed more cases of sexual violence, it did not disaggregate law enforcement efforts directly targeting sex trafficking from other sexual violence crimes. The government did not develop standard operating procedures for the identification and referral of victims, adopt comprehensive legislation criminalizing all forms of trafficking, or adequately hold accountable complicit officials. Widespread corruption combined with the lack of an anti-trafficking framework continued to hinder efforts to combat all forms of human trafficking throughout the country.

PRIORITIZED RECOMMENDATIONS

Increase efforts to address all forms of trafficking, including sex trafficking and forced labor of both adults and children. • Cease unlawful use of children by the FARDC and collaboration with armed groups that unlawfully recruit and use children. • Improve measures to proactively identify trafficking victims, including providing training for front-line officials to do so among vulnerable groups, including women and children exploited in prostitution, street children, and men, women, and children in artisanal mining, and to refer victims to appropriate care. • Enact a decree formally establishing an inter-ministerial anti-trafficking committee and adopt an anti-trafficking national action plan. • Develop legislation that criminalizes all forms of trafficking and prescribes penalties which are sufficiently stringent, and with respect to sex trafficking, commensurate with penalties prescribed for other serious crimes. • In partnership with civil society, take concrete steps to provide comprehensive protection services to victims of all forms of trafficking, and ensure trafficking victims are not punished for unlawful acts committed as a direct result of being subjected to human trafficking. • Continue to cooperate with civil society to end the unlawful recruitment and use of child soldiers by all governmental and non-governmental armed groups and identify, remove, demobilize, and refer all children associated with armed groups to appropriate care. • Use existing legislation to increase efforts to investigate, prosecute, convict, and adequately sentence traffickers, including complicit officials. • In partnership with international experts, develop national standard operating procedures for the identification and referral of victims. • Develop and implement procedures for collecting and reporting data on cases of sex trafficking, as distinct from other sexual violence crimes, and forced labor. • Protect activists documenting trafficking in persons crimes, and when sufficient evidence exists, criminally prosecute persons complicit in such abuses. • Raise awareness about human trafficking among the public.

PROSECUTION

The government made uneven law enforcement efforts. Congolese law criminalized all forms of sex trafficking and some forms of labor trafficking. However, the lack of a comprehensive anti-trafficking legal framework continued to contribute to officials' lack of understanding of trafficking and their conflation of it with other crimes, such as illegal international adoption. Article 174(j) of the 2006 Sexual Violence Law criminalized child sex trafficking and prescribed penalties of 10 to 20 years' imprisonment. Section 174(e) criminalized sexual slavery and prescribed penalties ranging from five to 20 years' imprisonment as well as a fine of 200,000 Congolese franc (\$123). These penalties were sufficiently stringent and commensurate with those prescribed for other serious crimes. Article 174(c), which criminalized the “forced prostitution” of adults, prescribed penalties of three months to five years' imprisonment; these penalties were sufficiently stringent but not commensurate with those prescribed for other serious crimes, such as rape. Articles 182 and 183 of the 2009 Child Protection Law 09/001 also criminalized the “procurement” of children and child sexual slavery and prescribed penalties of five to 20 years and 10 to 20 years with a fine between 8,000 and 1 million Congolese franc (\$4.91 to \$613), respectively; these penalties were sufficiently stringent and commensurate with other serious crimes, such as rape. Article 187 criminalized child labor, including forced child labor, and prescribed penalties of one to three years' imprisonment and fine between 100,000 and 200,000 Congolese franc (\$61 to \$123); these penalties were

not sufficiently stringent. Article 326 of the 2002 Labor Code criminalized adult forced labor and prescribed penalties of up to six months or a fine of 30,000 Congolese franc (\$18); this penalty was not sufficiently stringent. However, the government did not criminalize fraudulent labor recruitment under Congolese law. The enlistment of persons younger than 18 years old into the armed forces and the police carried penalties of 10 to 20 years’ imprisonment.

The judicial system in the DRC remained weak. While the government increased the number of military court cases involving sexual violence, which likely included trafficking crimes, it did not report directly targeting sex or labor trafficking crimes, beyond child soldiering offenses, as trafficking-specific law enforcement efforts. The government made insufficient efforts to investigate sex trafficking of women and children, or forced labor in artisanal mining, even though the scale of these crimes was significant. The government did not report comprehensive data on trafficking investigations, prosecutions, and convictions. The government continued to work towards implementation of national data collection tool to report comprehensive data; but it did not deploy the system during the reporting period. The government reported investigating and initiating prosecution of 14 suspects involved in child soldier recruitment. In addition, the government reported investigating an unknown number of suspects for fraudulent recruitment of girls for jobs that did not exist in Kuwait and Lebanon. The government stated it shut down the recruiting operation but did not report arresting any suspects. The government reported filing 584 cases of sexual violence in military court in 2018, compared with 547 in 2017, 496 in 2016, and 68 in 2015; however, as in years past, the government did not report if the cases involved sex trafficking. In addition, the government did not report the number of trafficking prosecutions in criminal courts. The government reported convicting four traffickers in 2018, compared with six traffickers in 2017. Of these, the government reported convicting two armed group leaders for child soldier recruitment, among other crimes, and sentenced them to 15 years and life imprisonment; in addition, it convicted two complicit officials—a Colonel and Lieutenant Colonel—for sexual servitude, among other crimes, and sentenced them to 20 years’ and life imprisonment. In contrast, no such high-level prosecutions occurred in 2017. The Government of the Republic of the Congo reported arresting a suspected trafficker of one boy from the DRC, while another trafficker reportedly stayed in DRC; the Republic of the Congo released the one suspect from prison and deported him to DRC; but the government did not report investigating or prosecuting either suspected trafficker during the reporting period.

Despite convicting two officials, the government did not make adequate efforts to hold complicit officials accountable, and corruption remained a significant concern, inhibiting justice for victims during the reporting period. For example, the government had yet to initiate prosecution for former FARDC officials charged in 2014 and 2015 for suspected child soldier recruitment. Additionally, the government remained complicit in harboring escaped convicted trafficker Gedeon Kyungu, who recruited child soldiers; he escaped from jail in 2011 and was placed under a form of house arrest in Lubumbashi in 2016. During the reporting period, there were two cases, verified by an international organization, of children used—but not recruited—in support roles by the FARDC, one for sex slavery and domestic servitude and the other for forced labor; the government redeployed one commander allegedly responsible for these crimes to a different

regiment and did not report holding him or other allegedly complicit officials accountable. The Ministry of Interior facilitated an anti-trafficking workshop that included 35 senior and mid-level government officials. In addition, the government organized, but did not fund or lead, trainings to 578 police and military personnel on preventing child soldiering, protecting human rights, and preventing sexual violence.

PROTECTION

The government maintained minimal efforts to protect trafficking victims. The government continued efforts to identify and refer child soldiers to international organizations for assistance but did not comprehensively report on efforts to identify, refer, or assist victims of sex and labor trafficking more broadly. As part of its national Disarmament, Demobilization, and Reintegration (DDR) Plan, the government continued to cooperate with an international organization and NGOs to identify and remove child soldiers from armed groups operating in eastern DRC, but it reportedly did not take the lead on these efforts. The government worked with an international organization to identify and separate at least 2,253 children from armed groups in 2018, compared with 2,360 in 2017. Procedures were in place for referring child soldiers to an international organization for specialized care, which most but not all of the children received. However, the government did not have national standard operating procedures to systematically identify and refer all trafficking victims to appropriate care. The government did not proactively identify victims among vulnerable groups, such as street children, women, and children exploited in prostitution, and men, women, and children in artisanal mining, even though the scale of these problems was significant. The government funded the repatriation of 12 trafficking victims from Kuwait to the DRC and the repatriation of one child forced to commit crimes from the Republic of the Congo. Upon their return to the DRC, the Ministry of Interior reportedly provided the 12 Congolese women exploited in Kuwait with medical treatment and coordinated family reunification; however, 36 Congolese trafficking victims remained in Kuwait and efforts to assist them were ongoing. The Republic of the Congo identified one child victim of forced criminality who it repatriated back to DRC; however, there was reportedly another child forced to commit crimes that stayed in DRC, but the government did not report assisting this child. The government reported continuing to provide social services, including lodging and medical attention, to 19 persons vulnerable to trafficking who were repatriated from Libya in the prior reporting period.

The government did not have national standard operating procedures to systematically identify and refer all trafficking victims to appropriate care; however, some NGOs reported that, during the reporting period, police, the Ministry of Social Affairs, and the General Directorate of Migration (DGM) identified and referred an unknown number of potential trafficking victims to NGOs for care on an ad hoc basis. The government did not provide specialized services and care to trafficking victims as distinct from other vulnerable groups. The government reportedly offered housing for up to three months and family reunification for children separated from armed groups and support for socio-economic integration of sexual violence victims; however, the government did not report the number of children that were provided with these services during the reporting period. The government partnered with NGOs to provide the vast majority of

services to trafficking victims, which reported providing assistance to 272 trafficking victims during the reporting period, including medical and psychological services, legal assistance, and reintegration services such as literacy and vocational training. The Ministry of Interior reported coordinating with officials of the Government of Angola on identifying cross-border trafficking victims in the Kongo Central province. The government also reportedly cooperated with the Government of the Republic of the Congo to address cross-border trafficking by preventing all unaccompanied minors from entering into the country; however, the government did not report screening children for trafficking indicators or identifying any victims as part of these efforts.

Trafficking victims could file cases against their traffickers in civil courts, though few victims pursued this avenue due to a lack of trust in the judicial system. The government generally allowed for the safe repatriation of foreign child soldiers in cooperation with an international organization. Despite these efforts, some trafficking victims, including child soldiers or suspected soldiers, continued to be subject to detention or punishment for unlawful acts committed as a direct result of being subjected to human trafficking. For example, in 2018, the FARDC and Congolese National Police arrested 58 children because of their alleged association with armed groups; officials released these children after periods ranging from three days to two years. Due to a lack of training on victim identification, the absence of measures to screen for trafficking among vulnerable populations, and the frequency of arbitrary arrest in the country, victims likely remained unidentified in the law enforcement system.

PREVENTION

The government maintained efforts to prevent trafficking. The government continued efforts to prevent the recruitment and use of children into the FARDC, and forced labor in mining. At the end of the reporting period, the government remained without a national action plan to combat trafficking and a formal anti-trafficking inter-ministerial committee. However, representatives from the Ministries of Labor, Justice, Interior, Gender, Health, Social Affairs, as well as law enforcement and the judiciary, continued to participate in meetings of an unofficial inter-ministerial anti-trafficking working group with local NGOs and international organizations. The unofficial working group discussed strategies to draft comprehensive anti-trafficking legislation and took steps to establish an anti-trafficking agency by drafting a decree.

In collaboration with an international organization, the government's Joint Technical Working Group (JTWG) for implementing the UN National Action Plan to end child recruitment—which was comprised of government ministries, NGOs, and international organizations—continued to implement a national action plan to end the recruitment and use of child soldiers and remove them from armed groups. The national-level JTWG, with locations in nearly every region including two new locations during the reporting period, met monthly, and with collaboration from an international organization, held seven workshops on age verification and the child soldier action plan. There were no confirmed cases of child soldier recruitment by the FARDC for the fourth consecutive year. In partnership with NGOs, the government screened more than 2,164 new FARDC

recruits to verify their ages; through the screening process, the government prevented more than 146 children from joining the FARDC in 2018. However, there were two cases, verified by an international organization, of the FARDC using children—but not recruiting—in support roles, including for sexual slavery and forced labor. The FARDC also continued to collaborate with the Nduma Defense of Congo Renove (NDC-R), a proxy militia that recruited and used child soldiers, as well as the Bana Mura proxy militia that used 64 children in sexual slavery. However, during the reporting period, the government facilitated the logistics to allow an international organization to successfully negotiate with 14 armed group commanders, including the commander of NDC-R in November, to sign pledges renouncing future recruitment of children and requiring the release of children currently among their recruits. There are currently no measures to address the termination of these proxy relationships within the national action plan to end the recruitment and use of child soldiers.

The government initiated an anti-trafficking public awareness campaign on sexual slavery in Kinshasa and Goma during the reporting period. The government continued the operation of a hotline to report crimes but did not report whether it received any calls on trafficking. The government did not make efforts to reduce the demand for commercial sex. The government continued to make efforts to reduce the demand for forced labor in artisanal mining but did not do so in other sectors. In 2018, the government continued its efforts, in cooperation with an international organization, to validate and certify an additional 154 artisanal mining sites in eastern DRC as conflict-free and child labor-free, bringing the total to 465 tantalum mines and 106 gold mines. The Ministry of Labor, responsible for inspecting worksites for child labor, remained understaffed and had limited resources to conduct inspections for child labor violations, including trafficking violations, throughout the country. The government did not have effective policies regulating labor recruiters and did not hold fraudulent recruiters accountable—a trafficking crime affecting many Congolese. The government did not provide anti-trafficking training to its diplomatic personnel. The government did not provide anti-trafficking training for FARDC troops prior to their deployment abroad as part of international peacekeeping missions.

TRAFFICKING PROFILE

As reported over the past five years, human traffickers exploit domestic and foreign victims in DRC, and traffickers exploit victims from DRC abroad. Some traffickers were individuals or family members who promised victims or victims' families educational or employment opportunities but instead exploited trafficking victims by forcing them to work as domestic servants, street vendors, gang members, or prostitutes; most trafficking is internal and involves forced labor in artisanal mining sites, agriculture, domestic servitude, or child recruitment by armed groups or sex trafficking through forced prostitution. In February 2018, an international organization estimated that there were more than 150 different armed groups in the DRC. In 2018, several armed groups continued to abduct and forcibly recruit Congolese men, women, and children as combatants and in support roles, such as guards, porters, cleaners, cooks, messengers, spies, and tax collectors at mining sites; women and girls were forced to marry or serve as sex slaves for members of some armed groups. As reported in 2015, traffickers

would force some children to commit crimes for them, such as looting and extortion and in 2018, traffickers forced children across the border into the Republic of the Congo where they were forced to commit theft. The Government of the Republic of the Congo identified 33 females, reportedly some were minors, from DRC and deported them for prostitution without screening. In 2018, armed groups in eastern DRC used women and children as soldiers and human shields with documented incidents of gang rape and sexual enslavement and there were 631 confirmed cases of new child recruitment by armed groups. At least 15 Rwandan, Ugandan, and Burundian children were separated from armed groups in DRC in 2018. In 2016, abductions for recruitment by the Lord's Resistance Army increased slightly, and 16 Burundian child soldiers and one Rwandan child soldier, some recruited from refugee camps, were stopped by government officials while reportedly transiting through the DRC to fight in armed groups in Burundi. Child soldiers separated from armed groups and reintegrated into society remain vulnerable to re-recruitment, as adequate rehabilitation services did not exist for children suffering severe psychological trauma, stigmatization may interfere with community reintegration. There were no confirmed cases of child soldier recruitment by the FARDC for the fourth consecutive year. An international organization verified the FARDC used children in support roles, including for sexual slavery and forced labor, in 2017 and 2018. Additionally, the FARDC continued to collaborate with proxy militias that recruited and used children in armed conflict. An international organization reported ongoing collaboration between the FARDC and NDC-R, which recruited at least 10 and used at least 38 children until November of 2018. Collaboration included the provision of ammunition and uniforms by FARDC officials, NDC-R's free movement throughout their territory, and coordinating strategies and battlefield tactics against other armed groups. However, the NDC-R's recruitment and use of child soldiers reportedly ceased after its leader signed a pledge renouncing future recruitment of children and requiring the release of children currently among their recruits. The FARDC also continued to broadly collaborate with the Bana Mura proxy militia, which used at least 64 children in sexual slavery during the reporting period.

Traffickers subject some men, women, and children working in artisanal mines in eastern DRC to forced labor, including debt bondage, by mining bosses, other miners, family members, government officials, and armed groups. Traffickers subject some children to forced labor in the illegal mining of diamonds, copper, gold, cobalt, tungsten ore, tantalum ore, and tin, as well as the smuggling of minerals. In January 2016, an international organization reported widespread abuse, including forced labor, of some children in artisanal cobalt mines in southern DRC; some children reported extremely long working hours and physical abuse by security guards employed by the state mining company. Children are also vulnerable to forced labor in small-scale agriculture, domestic work, street begging, vending, and portering. Children from the Republic of the Congo may transit through the DRC en route to Angola or South Africa, where they may be subjected to domestic servitude. From January to August 2018, reports indicate at least 893 women and girls were victims of sexual and gender based violence, with primary perpetrators including armed groups followed by FARDC, police, and intelligence agents. Some traffickers force Congolese women and girls into forced marriages where they are highly vulnerable to domestic servitude or sex trafficking. Congolese women and children migrate to other countries in Africa, the Middle East, and Europe, where traffickers exploit them in sex trafficking, domestic servitude, or

forced labor in agriculture and diamond mines. Some traffickers may fraudulently recruit women and force them into domestic work abroad through false promises of education or employment opportunities.

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