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Trafficking in Persons Report 2014 - Democratic Republic of the Congo

Tier 3

The Democratic Republic of the Congo (DRC) is a source, destination, and possibly a transit country for men, women, and children subjected to forced labor and sex trafficking. The majority of this trafficking is internal, and while much of it is perpetrated by armed groups and rogue elements of government forces outside government control in the country's unstable eastern provinces, incidents of trafficking likely occurred throughout all 11 provinces. A significant number of men and boys working as unlicensed Congolese artisanal miners are reported to be exploited in situations of debt bondage by businesspeople and supply dealers from whom they acquire cash advances, tools, food, and other provisions at inflated prices and excessively high interest rates. The miners are forced to continue working to pay off constantly accumulating debts that are virtually impossible to repay, and some miners inherit the debt of deceased family members. During the year, in North Kivu, South Kivu, Orientale, and Katanga provinces, armed groups such as the Democratic Forces for the Liberation of Rwanda (FDLR), Mai Mai Kata Katanga and Mai Mai Morgan, and M23, as well as elements of the Congolese national army (FARDC), routinely used threats and coercion to force men and children to mine for minerals, turn over their mineral production, pay illegal "taxes," or carry looted goods from mining villages.

Children are engaged in forced and exploitative labor in agriculture, informal mining, and other informal sectors. A significant number of children in Katanga, Eastern Kasai, Western Kasai, North Kivu, South Kivu, and Orientale are exploited in artisanal mining. NGOs reported that in Nyamurhale (North Kivu), FARDC soldiers force children to transport or grind sand and rocks. Children living on the streets who engage in vending are vulnerable to forced labor, and many of the girls are exploited in sex trafficking. Children laboring as domestic servants work long hours and are vulnerable to abuse and exploitation. Some Congolese women are forcibly prostituted in brothels or informal camps, including in markets, bars, and bistros in mining areas by loosely organized networks, gangs, and brothel operators. Some girls in Bas-Congo province are coerced into prostitution by family members or transported to Angola and placed into the sex trade. Some Congolese women and girls are subjected to forced marriage by kidnapping or rape, or are sold by family members for a dowry or relief of a debt, which obligates the women against their will to provide labor without compensation and with no ability to leave.

Congolese women and children migrate to Angola, South Africa, Republic of the Congo, and South Sudan, as well as East Africa, the Middle East, and Europe, where some are exploited in sex trafficking, domestic servitude, or forced labor in agriculture and diamond mines. Some Congolese migrants in Bandundu and Bas-

Congo provinces are lured to Angola by the promise of employment and, upon arrival, subjected to forced labor in diamond mines or forced into prostitution. Children from the Republic of the Congo may transit through the DRC *en route* to Angola or South Africa, where they are subjected to domestic servitude. Local observers suspect that some homeless children known as *chegués* who act as beggars and thieves on the streets of Kinshasa are controlled by a third-party. In previous years, Chinese women and girls in Kinshasa were reportedly subjected to sex trafficking in Chinese-owned massage facilities. Some members of Batwa, or pygmy groups, are subjected to conditions of forced labor, most commonly in agriculture, but also in mining and domestic service in remote areas of the DRC. Some Angolans enter the DRC illegally to work in Bas Congo province and are vulnerable to forced labor and exploitation.

The UN reported that indigenous and foreign armed groups, such as the FDLR, various local militias (Mai-Mai), Nyatura, Force for the Defense of Human Rights (FDDH), the Allied Democratic Forces, M23, Bakata Katanga, and the Lord's Resistance Army (LRA), continued to abduct and forcibly recruit Congolese men, women, and children, as young as 8-years-old, to bolster their ranks and serve as bodyguards, laborers, porters, domestic workers, combatants, and sex slaves. Some children were also forced to commit crimes for their captors, such as looting. The LRA continued to abduct Congolese citizens, including children, in and near Orientale province; some of these abductees were later taken to Sudan, South Sudan, and the Central African Republic (CAR). Likewise, abducted South Sudanese, Ugandan, and CAR citizens experienced conditions of forced labor and sexual servitude at the hands of the LRA after being forcibly taken to the DRC. In part due to weak command and control structures, some FARDC elements have deviated from government policy and recruited, at times through force, men and children for use as combatants, escorts, and porters. They reportedly pressed men, women, and children, including internally displaced persons and prisoners, into forced labor to carry supplies and looted goods, serve as guides and domestic laborers, mine for minerals, or construct military facilities. In addition, it was reported that, contrary to government policy, some FARDC commanders and troops provided logistical support, arms, and ammunition for armed groups, including FDLR, Mai Mai Morgan, and Mai Mai Kata Katanga, which routinely engaged in human trafficking. Due to the ongoing conflict, more than 2.9 million people were displaced in DRC, and displaced persons in Katanga, North Kivu, and South Kivu provinces are particularly vulnerable to abduction, forced conscription, and sexual violence by armed groups and government forces.

The UN documented 1,023 cases of children who were both recruited and separated from armed groups in 2013; 113 of these children were from the FARDC, 270 were from the Mai Mai Nyatura, 68 from the FDDH, 38 were from M23, and the remainder—including 355 from various Mai-Mai groups—were from other Congolese and foreign armed groups. Of these children, 299 were identified as combatants during their time with armed groups, and most children were used in multiple capacities such as cook, porter, sex slave, and/or laborer. Children recruited by armed groups have been identified from every province in DRC and neighboring countries, including Uganda, Rwanda, CAR, and Sudan. There were reports that police, Congolese military officers, and members of armed groups in eastern DRC arrested people arbitrarily to extort money and sometimes forced them into work if they could not otherwise pay.

The Government of the Democratic Republic of the Congo does not fully comply with the minimum standards for the elimination of trafficking and is not making significant efforts to do so. During the year, the government took steps to implement a UN-backed action plan to end abuses against children by its armed forces, including the recruitment and use of child soldiers, by conducting national working group meetings to oversee implementation of the action plan, issuing two directives to military and intelligence commanders aimed at deterring the recruitment and use of child soldiers and transferring of identified child soldiers to social service organizations, and cooperating with international organizations in the demobilization of children from armed forces. The government investigated three cases of transnational sex trafficking and identified five victims in these cases, but did not report providing protection services or referring them to NGOs for assistance services. The government did not prosecute or convict anyone for committing any form of trafficking, including trafficking crimes involving child soldiers. At times, the government detained, mistreated, and interrogated children apprehended from armed groups.

Recommendations for the Democratic Republic of the Congo:

Use existing legislation to investigate and prosecute military personnel—including high ranking officers—accused of unlawful recruitment or use of child soldiers, as called for in the UN-sponsored action plan on child soldiers, or use of local populations to perform forced labor, including in the mining of minerals; increase efforts to prosecute and punish non-military trafficking offenders, including law enforcement personnel, who utilize forced labor or control women and children in prostitution; take steps to ensure the provision of short-term protective services in partnership with civil society to victims of forced labor and sex trafficking; adopt an action plan to combat all forms of trafficking; in partnership with local or international NGOs, provide training to law enforcement and judicial officials on the laws available to prosecute trafficking cases; take measures to end the unlawful recruitment and use of child soldiers by FARDC members acting contrary to government policy and inform all members of the FARDC of relevant government policies; adopt implementing regulations to effectively apply the previously passed Child Protection Code; continue to ensure any armed groups integrated into the FARDC are vetted for the presence of child soldiers and all associated children are removed, demobilized, provided appropriate services, and reintegrated into communities; ensure perpetrators of trafficking crimes

within armed groups are not integrated into government forces and are held accountable; continue allowing unfettered access to military installations for all UN observers and child protection officers; develop a legislative proposal to comprehensively address all forms of trafficking, including labor trafficking; and take steps to raise awareness about all forms of human trafficking among the general population.

Prosecution

The government demonstrated progress in investigating human trafficking offenses but did not convict or punish any trafficking offenders. The July 2006 sexual violence statute (Law 6/018) specifically prohibits sexual slavery, sex trafficking, child and forced prostitution, and pimping, and prescribes penalties for these offenses ranging from three months to 20 years' imprisonment. These penalties are sufficiently stringent and commensurate with those prescribed for other serious crimes, such as rape. Adult forced labor is not criminalized. The Child Protection Code (Law 09/001) prohibits all forms of forced child labor and child prostitution, and prescribes penalties of 10 to 20 years' imprisonment for sexual slavery. Cases of forced child labor, debt bondage, and child commercial sexual exploitation have penalties of one to three years' imprisonment, which are not sufficiently stringent for the serious nature of the crime. The enlistment of children into the armed forces and the police has penalties of 10 to 20 years' imprisonment, but the code cannot be fully implemented because necessary decrees from several ministries reportedly continue to be lacking.

The government's ability to enforce its laws does not extend to many areas of the country in which human trafficking occurs. Judges, prosecutors, and investigators often lacked adequate training and resources to conduct investigations and try cases. The government reported investigating three cases of transnational sex trafficking to Lebanon involving five identified victims, and it reported charging two defendants with sexual slavery during the year. The investigation into the victimization of the Congolese women in Lebanon was referred by the police to INTERPOL-DRC; the investigations are reported to be ongoing. In response to these cases, the National Assembly formed an investigatory commission which is developing recommendations for government reforms and the prosecutor general's office directed prosecutors to focus more attention to these types of cases. An NGO operating in eastern DRC reported that the government investigated one case of forced labor. Impunity for trafficking crimes by the security forces remained acute; the government did not report taking disciplinary action against or investigating, prosecuting, or convicting members of the security forces or other government employees complicit in exploiting civilians in forced labor or sex trafficking, or unlawfully recruiting and using child soldiers.

Bedi Mubuli Engangela (also known as Colonel 106), a former Mai-Mai commander suspected of insurrection and war crimes, including the conscription of children, remained in detention for a fifth year; a date for his trial was not set before the close of the reporting period. Lieutenant Colonel Jean-Pierre Biyoyo, formerly of the Mudundu-40 armed group and the first person convicted by Congolese courts of conscripting children, escaped from prison in 2006, but has reportedly been re-incarcerated and was in prison at the end of the reporting period. "Captain Gaston," an armed group commander allegedly responsible for the 2006 murder of an NGO child protection advocate attempting to identify and remove child soldiers, remained at large during the reporting period; his 2007 arrest warrant has not been executed and, after being promoted by the FARDC to the rank of major, he is leading a FARDC battalion. Bosco Ntaganda, the former commander of the armed group M23 and formerly a FARDC commander, surrendered in Kigali and was voluntarily transferred to the International Criminal Court for trial for crimes against humanity and war crimes, including the recruitment and use of children under the age of 15 and sexual slavery. A diplomat serving at the DRC embassy in Bujumbura was allegedly involved in trafficking of young girls; he was expelled from Burundi and was reportedly fired from his post at the Ministry of Foreign Affairs. In March 2013, the government trained approximately 50 FARDC commanding officers on issues related to child recruitment and, in April 2013, conducted an awareness campaign on the subject for 3,450 new FARDC recruits. The government did not provide specialized training to officials on combating other forms of trafficking, but the Congolese National Police and other DRC law enforcement agencies have requested and received specialized training in human trafficking from international donors.

Protection

Although the government assisted in the identification and demobilization of child soldiers, it did not offer specific protections to other types of trafficking victims. It reported identifying five victims of transnational sex trafficking and no victims of forced labor. There was no information as to what, if any, services the sex trafficking victims received. The government lacked procedures for proactively identifying victims of trafficking among vulnerable groups and for referring victims to protective services.

NGOs continued to provide the vast majority of the limited shelter, legal, medical, and psychological services available to trafficking victims. An NGO working with trafficking victims in eastern DRC reported providing assistance to 121 victims of human trafficking, including 77 victims of forced labor, 38 victims of sex trafficking, and six children separated from armed groups. Under the government's new National Disarmament, Demobilization, and Reintegration Plan (DDR III), signed in December 2013, male and female child soldiers are to be transferred immediately to UNICEF for processing and services. During this process, the National Demobilization Agency, in cooperation with United Nations Organization Stabilization Mission in the DR Congo (MONUSCO) and UNICEF, continued to separate and transport identified children to NGO-run centers for

temporary housing, care, and vocational training prior to returning them to their home communities when it is deemed safe for reintegration. Reintegrated child soldiers remained vulnerable to re-recruitment, as adequate rehabilitation services did not exist for children suffering the most severe psychological trauma and several armed groups continued to recruit children. While the FARDC high command remained supportive of MONUSCO's efforts to remove children from its forces during the reporting period, it lacked sufficient command and control to compel some FARDC commanders to comply with directives to release child soldiers or to prevent ground troops from recruiting additional children or subjecting local populations to forced labor. UN monitors and civil society partners reported the government granted child protection workers improved access to military installations.

The FARDC arrested, detained, and sometimes mistreated, including with beatings and deprivation of food and medical care, children formerly associated with armed groups. Security forces reportedly performed regular sweeps to round up *chegués* in Kinshasa and expel them outside the city center. The government did not show evidence of encouraging victims to assist in investigations against their traffickers. While trafficking victims could file cases against their traffickers in civil courts, there is no evidence that any have done so; the public widely viewed civil courts as corrupt and believed outcomes were determined based on the relative financial means of the parties to the lawsuit. The government offered no legal alternatives to the removal of foreign victims to countries in which they may face hardship or retribution; however, besides child soldiers, there were no foreign trafficking victims identified within the DRC in 2013. The government has consistently allowed for the safe repatriation of foreign child soldiers in cooperation with MONUSCO.

Prevention

Despite lacking an overarching strategy or coordination mechanism, the government made modest efforts to prevent human trafficking. In 2013, the government demonstrated progress in implementing a UN-backed action plan to end recruitment and use of child soldiers, sexual violence, and other serious child rights violations in the armed forces signed by the Ministry of Defense in October 2012. The plan commits the government to a series of tasks, including to establish an inter-ministerial committee to monitor implementation, end underage recruitment and sexual violence against children, ensure reintegration of victims, provide unimpeded access to UN personnel for verification, combat impunity of perpetrators of child rights violations, and regularly report on progress in implementing the plan. A joint technical working group that oversees implementation of the plan held 18 meetings and workshops during the year, initiated steps to establish technical working groups at the provincial level, and appointed two FARDC officers to serve as child protection focal points in North Kivu.

In May 2013, the Ministry of Defense and the national intelligence agency issued two directives stating that severe sanctions would be levied against FARDC members found guilty of recruiting or using children; detaining, torturing, or mistreating children because of their involvement with an armed group; killing, engaging in sexual violence, including underage marriage; attacking schools or hospitals; kidnapping children, including for forced marriage; and impeding humanitarian access to children. The directives also require that children who escape from armed groups, whether national or foreign, and are in the custody of FARDC or have been detained, be immediately transferred to competent humanitarian agencies. MONUSCO reports that the directives have increased awareness among FARDC commanding officers and improved the access of UNICEF and other child protection personnel to troops, training facilities, and recruitment sites for screening and separation as child soldiers. Prior to launching its national military recruitment campaign, the government did not have adequate systems to ensure children were not registered, though it sought assistance from the UN and other child protection actors to screen for children. As a result of this collaboration, more than 300 underage applicants were identified and prevented from joining the FARDC.

In response to identified cases of transnational sex trafficking in the last year, immigration authorities increased efforts to implement existing policies requiring adults to show documentation related to their stay abroad and minors to show appropriate travel authorization. The government did not increase efforts to establish the identity of local populations, and low rates of birth registration continued to contribute to individuals' vulnerability to trafficking. Although the National Ministry of Labor remained responsible for inspecting worksites for child labor, the ministry did not identify any cases of forced child labor in 2013. Inspectors had limited presence outside Kinshasa and often lacked means of transportation or resources to carry out their work. The government took no discernible measures during the reporting period to reduce the demand for forced labor or commercial sex acts.