Preliminary Assessment of Trafficking in the Democratic Republic of Congo (DRC)

A Report by the Sanela Diana Jenkins Human Rights Project at UCLA
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Executive Summary

This is a preliminary assessment of the extent of sexual exploitation and labor trafficking in the Democratic Republic of Congo (DRC). It provides details of some of the types of sexual exploitation currently in existence in the DRC, as well as other forms of sexual violence targeted mainly against women. It also provides details of labor trafficking, mostly related to the mining industry in the DRC. Both the sexual exploitation and the forced labor industry are interrelated, and abuses in one tend to contribute to abuses in the other.

I. Introduction

In February 2012, the Sanela Diana Jenkins Human Rights Project sponsored a field study trip to North Kivu and the Ituri District in the eastern Democratic Republic of the Congo ("DRC"). The study team consisted of six students and was led by Professor Richard Steinberg of UCLA School of Law. On that trip, an effort was made to assess the extent of sex trafficking and forced labor trafficking there. Part II provides our preliminary assessment of sex trafficking in the DRC. Part III assesses the extent of forced labor trafficking. Part IV concludes.

II. Sex Trafficking

A. Overall Assessment

At the request of Women's International League of Peace and Freedom, we investigated two questions about sex trafficking in the DRC. First, we assessed the extent of involvement, both direct and indirect, of the United Nations Organization Stabilization Mission in the Democratic Republic of Congo (MONUSCO) in sex trafficking in the DRC. Second, we

assessed the extent of sex trafficking known by civil society, the government and various bodies within the international community.

With regard to the first inquiry, we found overall involvement by MONUSCO to be lacking and consisting of isolated incidents. Most incidents consist of individual acts of being a customer of prostitutes, rather than acts rising to the level of sex trafficking under the international definition contained in the Trafficking Protocol.

With regard to the second inquiry, sex trafficking does appear to take place on a large scale and seems related to the extraction of minerals from mines. Trafficking related to mining tends to take a combined form of sex and forced labor trafficking, with some women being used for both. Age ranges vary, although young girls are frequent victims of capture and compulsion to carry out specific acts. Sex trafficking is also prevalent outside of the mining context. Congolese police and citizens tended to assert a connection between culture and sexual violence against women.

B. Detailed Findings

1. MONUSCO-related trafficking

MONUSCO peacekeepers have been frequent clients. Individuals or small groups from South African, Moroccan, and Indian contingents have engaged in such practices. Enough Project representatives note that Moroccan peacekeepers were involved in sexual solicitation of women in brothels. According to the Research Center on Environment, Democracy, and Human Rights (Centre de recherche sur l'Environnement, la Démocratie et les Droits de l'Homme/CREDDHO) representatives, who collaborate with Free the Slaves ("FTS"), the towns of Mushake and Pinga have been notable locations of such activity. Although most instances are likely simple prostitution, CREDDHO believes that at least some trafficking has taken place to

supply these women. Prostitution sites have been set up specifically for South African contingents in Mushake, a town 40 kilometers west of Goma. Bars or homes have been set up for this activity. Young girls performing acts are not paid directly and must wait until soldiers pay the bar owners to then get paid. Pinga, which is in Walikale, the region holding the largest mineral mine in the DRC, has also seen instances of girls being taken from their homes to have sex with contingents.

Evidence of U.N. involvement in the supply side of sex trafficking is thin, particularly compared to evidence of the magnitude of involvement in other areas where UN peacekeepers have been located, such as Bosnia. A representative of the Enough Project notes that MONUSCO patrols have focused on the mining areas due to the controlling presence there of armed groups, with which MONUSCO forces do not usually engage. However, the Enough Project has been notified of at least one instance of MONUSCO forces allegedly failing to protect women from rapes by armed forces, such as the FDLR, when MONUSCO was escorting them. Prostitution is very visible and is actively solicited by U.N. personnel. There have been purported efforts to decrease such solicitation of prostitution from minors among Indian contingents. A representative of the ABA Rule of Law Project feels that civil society has enough strength and knowledge of activities in the DRC that systematic MONUSCO involvement would be traceable or known if present. Although evidence of MONUSCO assistance with trafficking is lacking, repeated reports and knowledge exists of participation as customers in acts of simple prostitution.

2. Other Sexual Exploitation

We found several different forms of sexual exploitation in the DRC. Various Congolese sources linked the prevalence of sexual exploitation against women to cultural endorsement of sexual violence against women. Some Congolese advocate a cultural shift in the norms governing women's rights and status in combating exploitation of women. Exploited women tend to be from African backgrounds and importation of women from other continents is not a common practice in the DRC.

One type of sex abuse that is understood as "sex trafficking" in the international context deals with armed groups or national armies forcibly removing young civilian girls and women from homes to yield labor related to the mines and also sexual favors related to those guarding and operating the mines. This practice often occurs when armed groups, such as the FDLR, attack villages and take girls with them. According to a CREDDHO representative, these young girls serve as laborers of mines during the day, and serve the men sexually at night. For example, one sixteen-year-old victim interviewed by an FTS representative, in conjunction with a CREDDHO representative, spent three years sexually serving the commander of a mining site. A representative of the Enough Project agreed that sexual exploitation is rampant in the mining sector. Some men working in and around the mines spend five years without going home. Girls are consequently sexually exploited by these male miners. The girls are unable to refuse advances for fear of being killed.

A second type of sexual abuse is called "proxénétisme," which is commonly referred to as "pimping." In these instances, men and local military groups, such as the mai-mai, recruit prostitutes who work in bars and homes. According to a representative of the Association for the

Development of Peasant Initiatives (Association pour le Developpement des Initiatives Paysannes/ASSODIP), this has been known to occur in the Walikale area. As opposed to simple prostitution, it seems that this practice does not leave a choice to the women. Instead, these girls are taken from their homes, unaware of their fate and under false pretenses, sometimes being told they will be working in restaurants. They only later learn of their obligation to carry out sexual tasks. The money made by the bar owners for these sexual acts is given to the owner. The extent to which any of this money ends up in the hands of the women is unclear. It seems that often times, the money stays with the bar owner and the only things the women receive in return are bare necessities to survive such as food, clothes, and shelter. Older women sometimes help with this recruiting effort of younger girls by extracting them from villages, dressing them, and forcing them to serve in these bars and homes. According to a representative of the Enough Project, this practice of older women recruiting younger girls also exists in relation to mining operations. Older women, sometimes voluntarily, work with armed groups' commanders to recruit younger girls and use them as servants or sex slaves. These older women sometimes function as "queens" in the mines.

Although not amounting to the international understanding of sex trafficking, other forms of exploitation have been noted by NGOs, including representatives of CREDDHO, ASSODIP and Heal Africa. These practices include forced marriages and forced prostitution. In instances of forced marriages, young girls are married without their consent, many times by their own families. For example, parents have been known to force their daughters to marry because of rampant poverty. Once married, these girls are not allowed to leave the household and must suffer through whatever problems or abuse develops with her husband. In some DRC cultures, a practice called "le virat" is also related to forced marriage in that if a husband dies, his younger

brother inherits his sister-in-law, and is expected to care for her regardless of consent. Once again, these practices relate to culture, poverty, and financial difficulty.

In one form of sexual exploitation, the man and woman consensually agree to live together without marriage. If the woman desires departure, the man may refuse and physically abuse her. Thus, because she is not free to leave, she is confined to a home where she will be subjected to non-consensual sex. However, if she manages to depart, she must leave empty-handed and is not permitted to take any belongings with her. ASSODIP asserts that this forced "prostitution" occurs in the context of armed groups, such as the FDLR, attacking villages and staying with girls as wives for a given time as well.

3. Characteristics of Targeted Women

Ethnicities of trafficked women do not vary considerably. They are predominantly from various provinces in the DRC. However, women are sometimes taken or migrate from Rwanda or Burundi as well. Women from other countries generally do not work in the DRC sex industry. In regards to the education of the trafficked women, a representative of CREDDHO estimates that approximately 99% of victims are illiterate, have not attended school, and are unable to comprehend that what they are being subject to amounts to sex trafficking. Government involvement to prohibit, mitigate, or protect trafficked women is lacking. Although civil society and NGOs are advocating against trafficking and investigating it, the government is not. Because of the government's inability to accept local NGO research and efforts, NGOs have pursued a strategy of using international organizations to present results that are more likely to be accepted.

4. Cultural Practices

Although there is disagreement about the link between culture and sexual violence, local Congolese citizens, and Congolese law enforcement believe that some cultural practices facilitate sexual violence, given the traditional role and status of women. The commander of the Police Nationale Congolaise ("PNC") in Goma opined on the culture of courting in the DRC. For example, when a woman says "no" to sexual relations, that can often times mean "yes." Women always feel obligated to say no to avoid being perceived as morally loose. There is a notable traditional song that endorses sexual violence and is often played on the radio.

Furthermore, the community of Nande follows practices that track sexual violence. In this community, when a man loses his wife, the man becomes a "mukumbira," or rapist. It is a tradition that he should not stay in the community but instead must retreat to the forest for a period of six months. Upon return, he must chase after groups of women, who stick together. The woman he catches, he rapes. Upon completion of the rape, the man is deemed to be clean. He marries this woman and takes her home.

There is thus at least some evidence, as described to us by Congolese citizens, that various cultural practices lead to sexual violence. The overarching long-term solution to the victimization by women may consist of expanding job opportunities and educational opportunities, particularly for women.

Furthermore, a common cultural practice is for women to get swept up by groups of men when retreating to rural areas to fetch water or firewood in the field. Being alone exposes her vulnerability and leads to men taking the woman away to one man's home, where she is raped by the man who then claims her as his wife, openly declaring it to her family. Once raped and no

longer a virgin, she has no right to leave the perpetrator and is often times subjected to spending the rest of her life with him, regardless of her suffering and unhappiness.

III. Forced Labor

We also evaluated the extent of forced labor in the DRC, in mining and non-mining sectors.

A. Mining

There are approximately twenty armed groups currently operating in the DRC. Armed groups and the national army are involved in forced labor practices in order to profit themselves, often related to the mining industry. These armed groups, most notably the FDLR, but also FARDC, seek to control the mines to profit off the sale of the minerals, such as tantalum, tungsten, tin, and gold. Perhaps the most visible example of exploitation in eastern DRC is related to the largest mine in Walikale. There has been an ongoing power struggle related to control over the mine. Numerous attacks have been carried out.

The typical pattern of exploitation involves these armed groups attacking a village and taking individuals hostages to be "slaves" in the mines. The practices often consist of the head of the armed group ordering civilians to be put in mines without public presence. Frequent forced practices consist of digging, transporting, and cleaning the minerals, without receiving any form of compensation. Forced laborers are given only food, water, clothing, and sometimes medication, just barely enough to stay alive. All groups are targeted, including women and children. Additionally, women are subjected to serve as sex slaves for the men in and around the mines, as well as those working in the mines. According to a representation of CREDDHO and FTS, a shocking number of health problems and conditions plague the forced laborers and other inhabitants of the conflict mining areas. These include malnutrition, physical trauma, poor

hygiene, lack of medical treatment, lack of access to water, wounds, eye maladies, bronchitis, tuberculosis, asthma, diarrhea, skin lesions, muscle deformation, tetanus, bone fractures, contusions, and sexually transmitted diseases. Additionally, the mining industry has created a bad public health environment, and has contributed to pollution and environmental hazards, such as toxic chemicals.

There are several consequences to refusing being subjected to forced labor in the mines. First, the victim may have to pay fines. Second, the victim may be sent to jail. Once in jail, people are often tortured and in this way are victimized twice. Third, the victim may be stripped of all his belongings and possessions. ASSODIP, in partnership with FTS, has conducted research to understand the situation of children in the mines, particularly in Walikale and Massisi. According to this study of 211 subjects in Massisi and 190 subjects in Walikale, all children expressed a desire to stop forced labor. However, they often voluntarily returned after one year because they needed to find a way to eat and earn a trivial amount of money. ASSODIP found that if children failed to obey orders and go to the mine to dig, carry, or wash minerals, they will not eat and will be beaten in the evening, along with the possibility of incurring fines. Because children are easier to manipulate and are unable to perceive the danger of working in the mines, they are often targets.

Some manipulation is inherent in armed takeovers. According to a representative of CREDDHO, Tabo Ntabari Sheka, who commands a militia of mai-mais, claims that his group was fighting on behalf of the local Walikale people. However, his movement was illegal and members of the local population were illegally subjected to slavery. For example, he has taken people from Bilo Bilo to work as slaves the gold mines in Omate. Victims have also been taken

from Lubi and Njingala to the mine of Bissier. In this case, the mine collapsed, killing many of the forced laborers in the mine.

After these minerals are extracted, they enter a supply chain that extends all over the world. A majority of these minerals leave the DRC illegally and are sold to buyers in Asia and Europe. These minerals are vital to a variety of products and industries, such as electronics, and medical and aeronautics equipment. These products include cell phones, cars, and light bulbs, the purchase of which feeds the conflict and results in modern slavery, with the side effect of sexual violence.

B. Outside of Mining

There is also forced labor outside of the context of mining. Much forced labor occurs in relation to development activities, such as agriculture. Moreover, parents may also be perpetrators, forcing their children to work for others unwillingly. For example, in Masisi, there is a community practice called "ingamba," whereby parents negotiate with a farmer and give their children to them for six months. At the conclusion of this time period, the farmer may pay the parents of the child by giving them a goat. Meanwhile, the child only eats and does not give any form of consent as to the work being performed by him. It is simply a negotiation between the parents and the farmer. Furthermore, if this contract worked well, it may be renewed by the parents and the farmer, regardless of the child's preference.

Another form of forced labor concerns orphans who are unable to attend school. According to a representative of Heal Africa, some of these orphans are sought out by rich families to serve as domestic servants. There have been cases of pastors being approached by rich families inquiring about attaining one of these young orphans to serve the family. Many of

these victims are under the age of 13. Furthermore, they often endure sexual advances from the males in the family. This is a modern form of sexual slavery.

C. Causes of Modern Slavery

First, the absence of state presence and authority facilitates forced labor. Although international and national laws forbid these practices, the state is underdeveloped in the DRC and effectively non-existent in parts of the country. Second, victims are unaware of the laws condemning forced labor. Third, the prevalence of poverty and lack of land ownership lead to a state of helplessness and desperation. This in turn leads to victims retreating to mines in order to sustain life. Fourth, the occupation of a militia and its hostile capture of the local population contribute to this modern slavery. Lastly, the lack of schools and education leaves children in a state of idleness whereby parents force their young ones to be sent to the mines.

D. Solutions

Possible solutions are limited by statelessness in the region. First, as the state develops its capacity and authority, it must take responsibility for this injustice. Second, awareness campaigns on behalf of victims need to be capitalized upon by local NGOs and other interested parties in order to educate victims of the laws that are in place forbidding slavery. Third, another awareness campaign should consist of informing the population that minerals will one day be exhausted and thus lead to communities that must establish other useful activities for the local population to engage in, such as agriculture, fishing, and trade.

IV. Conclusions

Due to education, poverty, and culture, Congolese women are often unaware of current laws, their rights as women, and the international prohibition on trafficking. In the absence of a

state capable of enforcing laws against sexual exploitation and trafficking, females, particularly in rural areas, should be educated about what trafficking is and why they should resist it. The ABA Rule of Law Initiative actively endorses this awareness effort, but that effort faces a problem that combating illiteracy is a long-term and costly task, which is due in part to weak economic conditions generally. There must be international assistance to improve education, television and radio campaigns, publish materials in newspapers and other media, launch psychological help and hotline phone numbers. Furthermore, given that women tend to be stigmatized and perhaps often rejected from their communities after being sexually exploited, rehabilitation centers for survivors must be established on a larger scale. Women and mothers must use word of mouth to spread knowledge of such types of assistance. Another problem is that women who do manage to learn of their rights and seek legal assistance are daunted and hindered by evidence-gathering issues. More broadly, a general shift in attitudes toward women's rights and status in society could positively influence the fight against sex trafficking.

It is important to note that the types of sexual abuses occurring in peacetime and during conflict vary. For instance, mass rape usually occurs in the context of violent armed attacks on villages by ethnic rivals. But sex trafficking in the DRC exists in relation to the mineral mines and current cultural practices in marriage.

We note that the current judicial system has a limited capacity to prosecute trafficking cases and focuses on sex-related cases at a smaller scale, particularly statutory rape. The ABA Rule of Law Initiative finds that most prosecuted sex-related crimes concern cases of statutory rape, meaning girls under the age of 18 being involved in sexual intercourse, including those that may have consented at the time. The Police Nationale Congolaise also finds that most cases reported to law enforcement dealt with simple sexual violence and statutory rape among poor

families. More importantly, the provincial prosecutor in Goma believes that most sex-related crime consists of sexual violence and not trafficking. He cited one exception in the Ituri region where the perpetrator owned a cinema and used it for the sex trafficking of boys and girls. In his opinion, this was a very rare occurrence.

Some of the solutions previously discussed in relation to awareness, education, and poverty apply to our discussion of forced labor as well. One of the ways to disrupt the cycle of forced labor, especially with respect to women and children, is to disrupt the supply chain of minerals to buyers. Forced labor occurs at all levels of the minerals industry, including extraction, washing, packing, transporting, and shipping. Countries that receive these minerals, including Rwanda, need to provide better customs and border policing of trade in these minerals in order to prohibit and disrupt their re-export. For example, much of the transport of minerals involves false documents that could be better identified by foreign governments. Vigorous political pressure must be put on buyers of these minerals, such as the small Chinese business houses known as *comptoires* in the DRC and other trading partners who knowingly receive these minerals. Tracking financial flows from the DRC to Rwanda, for example, might hinder the flow of profits to corrupt leaders of these operations, including Bosco Ntaganda. Only 60 of the 1,000 mines in eastern Congo have been declared conflict-free, and the largest tin mine (that accounts for 70% of tin production in eastern DRC), located in Walikale, has not been declared conflict-free according to the Enough Project.

A major source of the problem is the corruption and lack of enforcement by the Congolese government of the mining code. For example, the government has allowed Congolese army units, trucks, and helicopters to ship these minerals from the mines to Goma. For the minerals to reach end user companies in the west from eastern Congo takes from nine

months to one year. Thus, intermediary parties facilitating the process must be identified and penalized for partaking in this process. Additionally, foreign governments must implement and enforce mechanisms to prohibit the purchase or trade of these identified minerals and to prevent profits from falling into the hands of armed groups. For example, the U.S. Dodd-Frank law has had some impact on these sales, but there is still much to be done. According to the Enough Project, many buyers do not comply with Dodd-Frank and simply fail to ask questions regarding the origin of the minerals.