Role of Organised Criminal Groups with regard to Contemporary Forms of Slavery: Call for Input

The below questionnaire addressed to Member States and other stakeholders is meant to assist the Special Rapporteur on contemporary forms of slavery, including its causes and consequences to elaborate a comprehensive report on the on the role of organised criminal groups with regard to contemporary forms of slavery. The report will be presented to the General Assembly during its 76th session in October 2021.

**Deadline**

16 April 2021

**Issued by:**

Special Rapporteur on contemporary forms of slavery, including its causes and consequences

**Purpose:**

To inform the Special Rapporteur’s forthcoming report to the 76th session of the General Assembly.

Key questions and types of input sought

1. **Types of criminal groups involved in contemporary forms of slavery**  
   1. Is there evidence of organised criminal groups[1](https://www.ohchr.org/EN/Issues/Slavery/SRSlavery/Pages/cfi-role-organised-criminal-groups-slavery.aspx" \l "_ftn1) engaging in contemporary forms of slavery[2](https://www.ohchr.org/EN/Issues/Slavery/SRSlavery/Pages/cfi-role-organised-criminal-groups-slavery.aspx" \l "_ftn2) in your country?

Using OHCHR’s standard methodology and standard of proof, the UNJHRO documented 63 cases of **forced labour** perpetrated by armed groups in 2020, with 574 victims (460 men, 71 women and 43 children). In the majority of these cases, the victims were forces to transport looted goods. In other cases they were forced to carry out support duties such as cooking or doing agricultural work.

In addition, 25 victims of **sexual slavery** (23 girls, one woman and one man) were recorded by the UNJHRO in conflict-affected areas in 2020.

One of the most prominent cases of sexual slavery by armed groups documented in recent years relates to the abduction of over 200 women and children between March and April 2017 and their exploitation for sexual and economic purposes by members of the Bana Mura militia in Kamonia territory, Kasai province. The victims were targeted because of their Luba or Lulua ethnicity, whereas the Bana Mura are mostly Tshokwe, Pende and Tetela. Even though most of the hostages have since been released and no new cases of abduction and slavery by the Bana Mura were recorded in 2020, there are concerns over the situation of those that remain in captivity and MONUSCO continues to advocate for their release.

* 1. If so, please provide further information about these groups, including their names, social, cultural or ethnic profiles, and structures (e.g. large hierarchical groups or network-based small groups working individually or in collaboration with others).

The groups responsible for the 63 cases documented in 2020 include Nduma Defense of Congo-*Rénové* (146 victims), Rayia Mutomboki (112 victims), the Allied Democratic Forces (with 85 victims), various Mayi-Mayi groups (68 victims), Djugu-based armed assailants including from CODECO (63 victims), the Lord’s Resistance Army (50 victims), the Mayi-Mayi Mazembe (18 victims), Nyatura (13 victims), Twa militia members (10 victims), various other armed groups (six victims) and *Forces démocratiques de libération du Rwanda* (three victims). Armed groups involved in sexual slavery in 2020 notably include the Mayi-Mayi Apa na Pale, Djugu-based armed assailants including from CODECO, and Mayi-Mayi *Front Patriotique pour la paix/Armée du peuple* (FPP/AP).

These armed groups and militias have different profiles and areas of operations. Armed groups continuously evolve and their identity is not necessarily fixed. Some of them are predominantly made up of members of certain communities (as for instance the militias operating in Tanganyika, which are made up of members of the Twa community, and the Djugu-based assailants including those from CODECO operating in Ituri, which are predominantly from the Lendu community), whereas others do not recruit along ethnic lines or are ethnically mixed (such as the Mayi-Mayi Apa na Pale, which operate in areas of South Kivu, Maniema and Tanganyika provinces). Some of them, as for instance Nande-led Mayi-Mayi groups in North Kivu operate in an inter-connected yet semiautonomous manner, and are often grouped around individuals rather than in solid, well-defined command structure, whereas others have a more hierarchical and clear line of command.

* 1. Do these criminal groups operate domestically or internationally?

The majority of the groups responsible for these cases appear to be operating domestically. However, the Mayi-Mayi Apa na Pale is linked to the *Coalition nationale du peuple pour la souveraineté du Congo* led by Yakutumba. In 2013, the latter was widely believed to be allies with Burundian FNL group, yet this was denied by the leader. The Allied Democratic Forces, on the other hand, are defined as a foreign armed group that originally emerged in opposition to the Ugandan government before embedding itself in the DRC.

1. **The nature and extent of criminal groups’ involvement in contemporary forms of slavery**  
   1. What is the nature and extent of the involvement of organised criminal groups in contemporary forms of slavery in your country?
   2. Is there information regarding individuals being exploited by organised criminal groups in criminal activities (e.g. drug production, theft, etc.)?
   3. Is there evidence of individuals being exploited in legitimate businesses run by organised criminal groups, such as agriculture, domestic work, construction and catering?
   4. Is there evidence of corruption (e.g. bribery) and obstruction of justice (e.g. witness & jury intimidation) committed by organised criminal groups? If so, in what way does this affect victims/survivors of contemporary forms of slavery?
   5. Does the involvement of organised criminal groups in contemporary forms of slavery pose additional challenges in the identification of victims? If so, please provide details.
2. **Legislative Frameworks**
   1. In addition to legislation relating to contemporary forms of slavery, does your country have any statutory frameworks criminalising the activities of organised criminal groups (e.g. participating, leading/directing, organising or being a member)? If so, please provide details, including statistical information on prosecutions/convictions if available.

In Congolese criminal law, two offenses relate to criminal groups. These are “criminal association” (provided for in article 156 of the Criminal Code) and “participation in an insurrectionary movement” (provided for in article 136 of the Military Criminal Code). These two offenses are punishable by death.

* 1. Do the legislative frameworks on contemporary forms of slavery stipulate the involvement of organised criminal group as an aggravating factor increasing penalties?
  2. Does your country have legislative frameworks to promote intelligence-led law enforcement (the use of special investigative techniques such as surveillance and interception of communications) to combat contemporary forms of slavery?

No.

* 1. Given the human rights implications arising from intelligence-led law enforcement (such as the rights to privacy and a fair trial), do these legislative frameworks provide for sufficient safeguards against abuse (e.g. judicial or other approval and oversight and grievance mechanisms in case of an abuse of process)?

Yes. Law No. 04/016 of 19 July 2004 on the fight against money laundering and the financing of terrorism.

* 1. Does your country have legislative frameworks on money laundering and criminal asset recovery (or confiscation of criminal proceeds)?
  2. Does your country also support civil asset recovery without criminal conviction? If so, please provide details including any safeguards in place.

Articles 30 and 31 of Law No. 04/016 of 19 July 2004 on the fight against money laundering and the financing of terrorism enable judicial authorities and officials responsible for the detection and suppression of money laundering and related offenses, to seize property related to the offense under investigation.

* 1. How does your country deal with corruption and obstruction of justice committed by organised criminal groups in relation to contemporary forms of slavery?

In the DRC, military courts apply articles 7 and 8 of the Rome Statute of the International Criminal Court to try crimes against humanity and war crimes, including sexual slavery by armed groups.

* 1. What legislative and other mechanisms are in place to protect witnesses in criminal proceedings involving organised criminal groups?

The Congolese legal framework is lacking on the issue of witness protection. It is left to magistrates to take any measures they deem appropriate for the protection of witnesses.

1. **Victims’/survivors’ access to justice and to remedies**
   1. What types of assistance (e.g. legal, medical, social and financial) is provided to victims who have been enslaved by organised criminal groups?

For victims of sexual slavery, where available medical, legal and psycho-social assistance is provided. This is generally provided by national and international partners providing assistance to victims of sexual and gender-based violence. Despite some projects, socio-economic or financial support is little available for survivors of sexual and gender-based violence, including survivors of sexual slavery.

* 1. Is provision of such assistance linked to a formal victim identification process and/or cooperation in criminal investigations and proceedings?

No.

* 1. What mechanisms/channels exist for them to access justice and remedies, and in which ways are they able to participate in criminal proceedings?

Survivors can access judicial support through “legal clinics”. In cases of sexual slavery by armed actors, this case will be undertaken by military justice authorities.

* 1. Can victims/survivors of slavery receive compensation in your country and if so, compensations to how many victims have been paid? Please provide details in this regard.

Despite Court decisions on compensations, victims of sexual violence including sexual slavery rarely receive financial compensation. There are ongoing discussions on the creation of a National Reparations Fund for victims of sexual violence in the DRC, which could allow victims/survivors of sexual slavery to receive compensation, but such a Fund is yet to be established.

* 1. Are confiscated criminal proceeds redistributed to enhance protection and assistance to victims and survivors? Please provide details.
  2. Does your country implement the non-punishment principle whereby the victims of contemporary forms of slavery are protected from criminal prosecutions even if they are allegedly involved criminal activities?

1. **Other Questions**
   1. What are the key challenges in combating contemporary forms of slavery committed by organised criminal groups in your country?

- Active conflict

- Under-reporting, particularly with cases of sexual slavery which is surrounded with a lot of stigma against survivors and risk of reprisals/retaliations for denouncing the crimes

- Lack of access to remedy and services for survivors of sexual slavery

Difficult access to areas most affected, and therefore to victims

- In some cases, support/collaboration with armed groups by defense and ` security forces

* 1. Does your country make use of international cooperation tools to tackle transnational organized crime as it relates to contemporary forms of slavery (e.g. Mutual Legal Assistance, joint investigations, extradition, etc…)? Please provide details.
  2. Has COVID-19 had an impact on the modus operandi of the organised criminal groups which operate in your country and if so, in what way?
  3. Please provide any additional information which you deem relevant with regard to the subject matter of this questionnaire.

**The Special Rapporteur would be grateful for submissions from Member States, civil society organisations, academia, United Nations agencies and other International Organizations, NHRIs and other stakeholders.**