

DATE: December 13, 2013
TO: Women Human Rights and Gender Section, OHCHR
FROM: Free the Slaves
Washington, DC, USA
SUBJ: Re: Call for submission on child, early and forced marriage

In June 2013, Free the Slaves released a research report, entitled *Wives in Slavery: Forced Marriage in the Congo*.

Pursuant to OHCHR's request for submissions on child, early and forced marriage, here is a summary of Free The Slaves' research findings and recommendations on forced marriage in the Democratic Republic of Congo, as they relate to the key focus areas in the request.

Context: Forced Marriage in DRC

Forced marriage within communities in eastern DRC stands out as a unique form of slavery less than it might otherwise, owing to a local context of marriage. In eastern DRC, the subservience of wives is both normalized and codified. Congolese Family Code, Articles 440 and 455 establish the man as the head of household and details certain circumstances where a wife requires marital authorization. Physical abuse is also normalized, whether the marriage is consensual or not. A DHS survey from 2007 found that 76% of Congolese women believe that there are circumstances that justify being hit by spouses and almost half of women had experienced violence from their partner within the prior 12 months.

Research Findings: Forms of Forced Marriage

In the Congo, forced marriages typically fall into one of four classifications: marriage by rape, marriage by sale, marriage by kidnapping, and child marriage.

Marriage By Rape:

Due to cultural taboos about the loss of virginity, many girls and women become the wives of their rapists. In DRC a man who rapes a virgin is obliged to marry her, and does not always have to pay a dowry to do so.

Many parents of raped girls often prefer to force their daughters to marry men who have raped them, especially in cases where they have become pregnant. Marriage in these circumstances is the preferred option. Many community members regard the victim to be unmarriageable to other men. So marriage to the rapist becomes her last option to obtain the status of marriage, which secures her place within the community while also removing her as a burden to her birth family.

Punishing rape under customary law is extremely difficult, since rape victims are ashamed and families do not want to come forward.

Marriage by "Sale":

In many cases, it is the promise of a dowry that motivates parents to force a marriage. Many women and girls are forced to marry in situations where economic incentives were a key factor.

Throughout much of the world, a dowry is traditionally paid by the wife's family to the groom's family. However, in the DRC the transaction is reversed. The tradition of a dowry or bride-price, where the family of a groom provides either cash or items of value such as cows to the family of the bride upon marriage, is often involved.

Once a dowry is paid, the wife is then economically and socially obliged to remain with her husband; if she leaves, the dowry must be repaid to the husband's family. This economic obligation is the key coercive mechanism that links a dowry to forced marriage.

Marriage by Kidnapping:

In some parts of the DRC, there is a ritual where a family arranges a marriage, but the girl or woman involved is not aware, and she is actually "captured" or kidnapped by her husband. This ritual in some communities is customary and considered normal. Although the practice has been increasingly condemned in Congo, it persists. In many cases the kidnapping ritual also involves a bride-price or other financial gain paid to the bride's family, or includes debt forgiveness.

Other forms of kidnapping are linked to the continuing DRC conflict. It has enabled widespread sexual assault by creating a climate of impunity, where the rule of law is non-existent, and by converting rape into a weapon of war. Government soldiers and rebels have used rape to terrorize communities into support or submission.

Kidnapped wives in these circumstances are sometimes viewed as sex slaves or prisoners of war, since their families were not involved in planning the marriages, and the women or girls are held captive away from family and other support systems.

Child Marriage:

Despite the 2006 Sexual Violence Law that criminalizes child marriages, the practice still persists. Child marriage is driven by poverty, debt, and marriage by rape. Early marriage is more frequent among financially desperate families. A father will give his daughter away if he will have one less mouth to feed. In addition, families often force children into early marriage in order to repay debts. Other children are forced into early marriage due to rape (see "Marriage By Rape").

Key Drivers of Forced Marriage

Poverty

Poverty or debt within a woman's family increases her vulnerability to forced marriage. Many cases of forced marriage are negotiated settlements that absolve a family member, often a father, of debt.

Conflict

The military conflict in eastern DRC has increased the vulnerability of women to forced marriage by creating a climate where there is limited rule of law. Armed combatants ignore laws with impunity, taking women and girls from their homes.

Discrimination

Girls are especially vulnerable to forced marriage because they have less power due to double discrimination of being both children and female in a patriarchal society. Child marriages result in high-risk pregnancies with greater rates of both maternal and neonatal illness and death.

Recommendations

- **Justice System:** Legal revisions are needed to prevent discrimination against women and prohibit or significantly limit the use of a dowry or bride-price in marriage. Judicial strengthening is needed to support prosecution of forced marriage crimes. Increased cooperation and coordination among key players in the justice system is needed, including police, courts, local governments and civil society.
- **Schools & Clinics:** Improved services in schools and health facilities are needed to ensure cases of forced marriage are identified and addressed effectively.
- **Community Education:** Increased support is needed for grassroots movements that can effectively address local attitudes and practices through dialogue, education, and other communications.
- **Scale-up Support:** Increased and coordinated monitoring, evaluation, and knowledge management is needed to ensure continuous learning and scale-up of practices that are raising awareness and reducing vulnerability to forced marriage.

Targeted Recommendations

To DRC Prosecutors and Police:

- Undertake training to raise police knowledge of the Sexual Violence Law of 2006 and to understand specifically the crime of forced marriage. Police need a practical understanding of how to gather evidence effectively and how to work with and protect victims and witnesses.
- Build capacity to work in cooperation with communities and be seen as a positive force. Many of the issues that prevent police effectiveness in this area are broader issues of police indiscipline, corruption, and even abuse of community members. Thus support to capacity building of police is not likely to be effective in the area of forced marriage unless it addresses these systemic issues.

To DRC Courts:

- Strengthen courts to handle the prosecution of forced marriage cases. Magistrates must be trained in the specific types of evidence required for these cases, how to manage witnesses and protect victims, and share strategies with each other for successful prosecution.
- Protect lawyers and victims' advocates in cases where their security may be at risk due because their actions in court may defy community norms.

- Increase capacity (knowledge, systems and mechanisms, motivation) of the courts for cooperation with police, local government, and civil society.

To DRC Legislators and Legal Advocacy Groups:

- Advocate for and enact revisions to the Family Code to eliminate provisions that discriminate against women.
- Advocate for and enact a revision to the Family Code that prohibits the payment of dowry for marriage; or alternatively, promote a presidential decree requiring that the dowry payment not exceed a nominal, symbolic amount.

To Civil Society Organizations (Churches, CBOs, NGOS, etc.)

- Support mass communications campaigns and local community-based communication campaigns to build community understanding of the adverse impacts of forced marriage on society and individuals.
- Build a broad network of collaborative relationships to ensure that victims are, first, rescued or supported to liberate themselves from forced marriage and other forms of slavery, and second, provided with the range of services they need to sustain themselves in freedom.