

# ITUC VIOLENCE IN DRC

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Violence against women  
in Eastern Democratic  
Republic of Congo:  
Whose responsibility?  
Whose complicity?



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# Foreword

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from Ms. Wallström  
*United Nations Special  
Representative of the  
Secretary-General on  
Sexual Violence in Conflict*



Since I took office less than two years ago, I have visited the Democratic Republic of Congo (DRC) three times. The eastern part of the DRC has been called ‘the rape capital of the world’ – for a reason: over 200,000 rapes have been reported since war began in the country more than a decade ago. And given the reluctance to report a rape, there are likely many more rapes having taken place for every incident reported. A 70-year old woman who shared her story told me how she had tried – in vain – to convince the rapists to leave her alone, pointing out to the perpetrators that they could be her own grand-children.

Sexual violence in conflict is, I am often told, inevitable. That it should be considered collateral damage. To this I say: That is wrong. No other human rights violation is routinely dismissed as inevitable. Sexual violence is not cultural, or even sexual. It is criminal. And given that it is often planned, it can also be stopped.

Prosecution is prevention, which is why I have made the fight against impunity my top priority.

I want to commend ITUC and its three affiliated organizations in the DRC, the CDT, UNTC and CSC as well as the ITUC Africa, for their efforts to address the issue of violence against women, including sexual violence. The role of trade unions is extremely important, not the least within the framework of social dialogue. We can all try to be role models by speaking up against the horrible crime that conflict-related sexual violence is, because only by talking about it openly can we together hope to break what has been called history’s greatest silence.

Control of Congo’s natural resources and minerals has always been contested, and these vast riches have fueled the country’s conflicts. They have helped enrich militant groups, who have employed sexual violence as a tactic of war. According to a recent UNEP report, the untapped mineral reserves of the DRC are estimated to be worth USD 24 trillion. A pilot research study carried out by the MONUSCO (United Nations Organization Stabilization Mission in the Democratic Republic of Congo) Office of Gender Affairs in the DRC found that women and girls in and around mining sites in the country face several high risks, including sexual violence, without physical, social or legal protection. So-called conflict minerals – which include gold, cassiterite, tungsten and coltan – cannot be allowed to continue fuelling conflict and the consequent sexual violence. I therefore welcome the U.S.’ initiative (the Dodd-Frank law from 2010) to regulate these minerals and strongly urge other countries to also initiate legislation to this effect. Furthermore, I strongly encourage the *Fédération des Entreprises du Congo* (FEC) to adopt the Dodd-Frank implementing rules – once published – and make sure they are strictly abided by. Inaction is not an option. Due diligence regimes need to be global and strictly carried out.

Companies should continue to invest in Congo, with third-party audits to minimize the risk of trading in conflict minerals. Those who do should face consequences from national police and international sanctions regimes. The resources of Congo should benefit the people rather than the rebels, who destroy their lives and livelihoods.

The women I meet in eastern Congo want an end to this war. One way is to make the war less profitable. I thank you for your support in the continued fight against conflict-related sexual violence.

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# A word from the General Secretaries

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Sexual and gender-based violence in the Eastern Democratic Republic of Congo is a human tragedy which must be denounced and brought to an end.

There is no excuse for the cruelty of those who torture and rape women and girls on a regular basis. There is no excuse either for the government of the DRC systematically failing to enforce its laws as it continues to maintain a situation of impunity in which perpetrators are never prosecuted.

But the conflict in the DRC, and the gender-based violence that characterizes it, is sustained and fuelled by financial gains and profits. The region is rich in minerals including gold and the famous 3 Ts (tin, tantalum, and tungsten) used in the production of mobile phones, computers, DVD players and video game systems among others. The electronics industry is the largest consumer of minerals from Eastern Congo, and it injects a considerable amount of money into the supply chain out of which the different armed groups prosper. They are the main perpetrators of massive rapes and related crimes.

It cannot be that we, as consumers, continue to buy products which are made on the basis of conflict raw materials without giving a second thought to how the minerals are extracted. Our unions and the companies that we deal with day in and day out must not continue to shirk their responsibility toward the people who live in the areas where the mineral wealth derives. It is the women who bear the brunt of the lack of effective action to address failings in governance and rule of law.

Governments, trade unions, Congolese and multinational companies, we all must work together to create decent living and working conditions in DRC as everywhere else. We are convinced that mining companies can be enlisted to put pressure on the supply chain and help eradicate the rapes and violations of women's rights that take place on a daily basis.

Violence against women is the worst manifestation of women's powerlessness and subordinate position at home, at work and in society. This study aims to shed some light on the supply chain of one of the most successful industries of our modern world. It is an invitation to all of us to join forces and make a difference for the women of the Democratic Republic of Congo.

Sharan Burrow  
ITUC General Secretary

Manfred Warda  
ICEM General Secretary

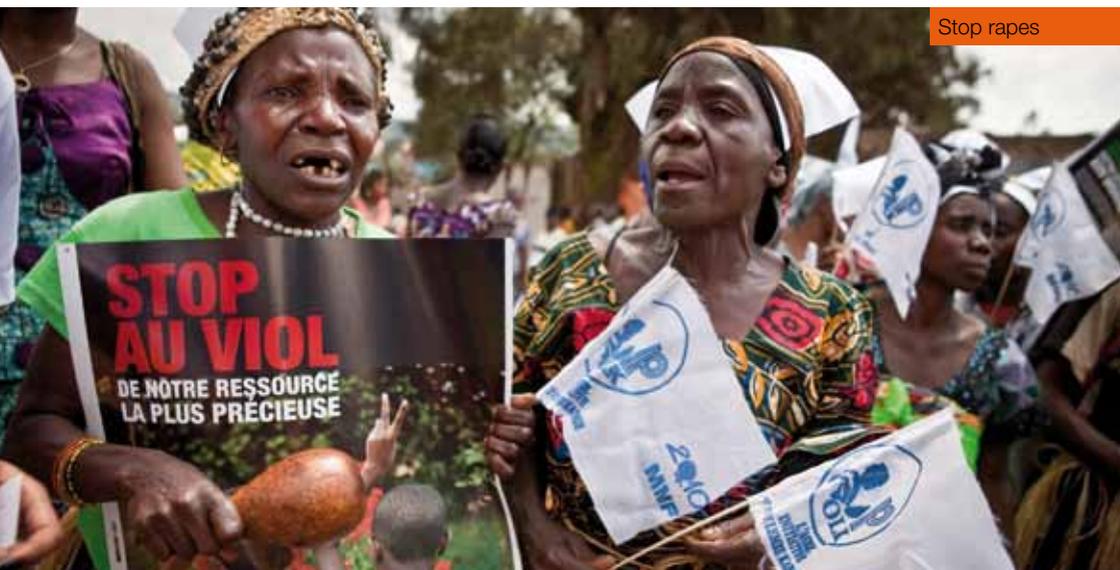
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# Violence against women in Eastern Democratic Republic of Congo: whose Responsibility? Whose Complicity?

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## Summary

Eastern Democratic Republic of Congo (DRC) has been ravaged by war and violence since the mid-1990s. Dozens of illegal armed groups and army units have been responsible for endless human rights abuses and widespread insecurity. Civilians carry the greatest burden of the conflict. Innocent people get attacked, abused, and killed by all sides. Women and girls are especially vulnerable to such attacks. Sexual and gender-based violence has become a defining characteristic of the conflict, a tactic of war. Hundreds of women and girls get sexually violated in their homes and at their workplace, including in mining areas, every month. Fuelled and motivated by Congo's minerals, rebel and army forces are inclined to maintain an insecure environment that ensures the continuation of the status quo. Congo's conflict minerals go through a convoluted, yet manageable and traceable, supply chain and end up in industrialised consumer products. The introduction of transparency and governance into the mining sector is advancing, but still much has to be done. Persistent impunity for sexual and gender-based violence and other human rights violations in the country reinforce insecurity and violence in the region. Efforts at strengthening the justice system are too slow, but the importance of law and justice in ending the conflict in Eastern DRC has been recognised.



Stop rapes

## Introduction

Eastern Democratic Republic of Congo (DRC) has been ravaged by war and violence for almost two decades. What started out as localised violence in Eastern DRC by *génocidaires* from Rwanda, who crossed the border after the genocide in 1994, turned into two successive civil wars. While the Second Congo War ended in 2004, the conflict has continued in the east until today. A patchwork of different armed groups and corrupt army units have become involved in the conflict over time for a variety of politically motivated and historically rooted reasons. The development of the exploitation and trade of natural resources in the region has further raised the stakes and means of all conflict actors to continue their fight. The two subsequent wars and continued conflict in the east has cost more than 5 million human lives so far, making it the deadliest conflict since World War II.

Civilians have suffered immensely from the widespread insecurity and they have often been the deliberate target of violence by all actors involved. In the course of last years' military operations against armed groups in the east, civilians and villages have been attacked by the conflicting parties, who accused them of collaborating with enemies. Villages have been destroyed, houses looted, people kidnapped and killed, and women and girls raped. Even though military operations have slowed down this year, attacks and abuse continue in an environment of high insecurity. Sexual and gender-based violence has become a defining characteristic of the conflict. Women and girls are sexually abused in their own homes and at their workspace, including in mines, fields, and forests. Remote mining sites where laws and rules are often disrespected and poor work and social conditions prevail are a particular and major place where sexual and gender-based violence occurs. Laws exist in the Congo that protect against such abuses and provide for tough measures against perpetrators. However, judicial authorities have been unable and unwilling to enforce the laws. Despite national and international efforts at improving the justice system and professionalising state security forces, impunity remains the norm and justice the exception.

Near-total impunity and the economic incentive structure are two main causes for the continued conflict in Eastern DRC. The revenues that can be made in the minerals sector have fuelled the operations of the conflict actors and have provided them with a personal profit. As long as this financial incentive structure persists, neither armed groups nor military units, who participate in the exploitation and trade of natural resources, will easily lay down their arms or start behaving responsibly. Even worse, different conflict actors have been incentivised to commit human rights abuses and create insecurity to ensure the continuation of the status quo.

The supply chain of natural resources from the mines in eastern Congo to the end users is complex and convoluted, but Congolese minerals do end up in electronic and other consumer products in Europe, the US, and Asia. Pressured by international governments, trade unions, and civil society, multinational enterprises are slowly taking up their responsibility to carry out due diligence of their supply chain. Efforts at formalising the Congolese mining sector and regional mineral trade are also advancing, but too slowly.

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# 01.

## CONGO'S CONFLICTS

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### **01. The Two Congo Wars**

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- b. The Economic Incentive Structure
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## ... 01.

# The Two Congo Wars

Eastern Democratic Republic of the Congo (DRC) has been ravaged by war and violence since the mid-1990s. The *génocidaires* — *Interahamwe* Hutu militias and ex-Rwandan Armed Forces (FAR) —, who fled Rwanda after the genocide in 1994 and who benefited from French support for the Rwandan government of Habyarimana<sup>1</sup>, started terrorising local populations in the Congo, while planning for an invasion of Rwanda. The First Congo War broke out in late 1996 when the Alliance of Democratic Forces for the Liberation of Congo-Zaire (AFDL) led by Laurent Kabila and with support from Rwandan and Ugandan troops marched into Eastern DRC to combat the Hutu militias and to take control of the country. AFDL advanced from the east to Kinshasa where they toppled Mobutu in May 1997 and installed Kabila as president. To claim his authority, Kabila ordered all Rwandan and Ugandan troops out of the country soon after, which triggered an invasion and subsequent occupation of the east by Rwandan and northern parts by Ugandan forces in the summer of 1998. The conflict in the DRC soon thereafter turned into a multinational war, to be known as the Second Congo War, with Rwanda and Uganda opposing and Zimbabwe, Angola, Namibia, Chad and Sudan supporting the Congolese government. The participating countries had varying agendas, including geo-political security concerns as well as the exploitation of Congo's natural resource wealth. In 2002, Rwandan and Ugandan forces withdrew, but they kept some proxies in the area. While the war was officially called over in 2004, conflict between various armed groups in the east continued. The two subsequent wars and continued conflict has cost more than 5 million human lives, making it the deadliest conflict since World War II.

## ... 02.

# The Conflict in Eastern DRC

### a. Motives of Conflict Actors

The continued conflict in Eastern DRC consists of a complex patchwork of several dozens armed groups and the Congolese national army. The origin of most of the various armed groups lays in the two Congo Wars and their aftermath. In the Kivu provinces, at the centre of the conflict, the main lines of contention have been between Tutsi and Hutu ethnic groups and between Rwandophones and local Congolese populations. The Democratic Forces for the Liberation of Rwanda (FDLR) are the militarily strongest armed group in Eastern DRC. It is a politico-military movement with remnants of Rwandese *ex-génocidaires*<sup>2</sup> and refugees. Officially, the movement seeks a return of Rwandan Hutus to their home country under the condition of an inter-Rwandan dialogue and greater political participation of Hutus.<sup>3</sup> The group had until recently been supported by the Congolese government.<sup>4</sup> The other major armed group the region has seen is the National Congress for the Defence of the People (CNDP). The CNDP was created by renegade General Laurent Nkunda as a politico-military movement in North Kivu in 2006, mainly to protect the interests of the Tutsi population and to end the presence of the FDLR.<sup>5</sup> The group received direct support from Rwanda until Nkunda was arrested and the CNDP integrated into the national army in early 2009, though the integration is far from complete.<sup>6</sup> Since its integration, the *Mayi-Mayi* groups have become the second most important conflict actors in North and South Kivu. *Mayi-Mayi* are local defence militias, often organised along ethnic lines and operating in areas they consider to be their

1. Habyarimana's government received military training and weapons from France in the early 1990s. After the ex-FAR leadership crossed into Eastern DRC after the genocide, they received at least five more shipments of weapons from France. Jason Stearns, *Dancing in the Glory of Monsters*. New York, Public Affairs, 2011, pp. 42-43.

2. An elaborate study estimates that the FDLR contains between 200 and 300 Rwandan Hutus who were implicated in the genocide. FARDC put it at only 37. IPIS, *Mapping Conflict Motives: Eastern DRC*, 2008, pp. 8-9.

3. UN Group of Experts, interim report, June 2011, p. 9, point 32; IPIS, *Mapping Conflict Motives: Eastern DRC*, 2008, p. 8.

4. International Crisis Group, *Congo: No Stability in Kivu despite a Rapprochement with Rwanda*, November 2010, p. 4.

5. IPIS, *Mapping Conflict Motives: Eastern DRC*, 2008, p. 6.

6. Rwandan support included the recruitment of soldiers, the supply of military equipment, and the participation of Rwandan army officers and troops in CNDP operations. UN Group of Experts report, December 2008.

traditional land. Some have in the past fought with the national army against foreign influence.<sup>7</sup>

### b. The Economic Incentive Structure

While the most influential armed groups in Eastern DRC have been created for historically rooted and politically motivated reasons, their motives have changed over time. The profits that can be made in the exploitation of natural resources in the region have increased the economic stake in the conflict. While in large parts of Eastern DRC, mining exploration and extraction concessions have been officially granted to industrial companies, mining in the territory remains artisanal and strongly controlled by armed groups and the national army. The revenues generated by the exploitation and trade of minerals have added an additional motive layer to the already complex conflict and have incentivised the creation of additional *Mayi-Mayi* groups.

Whereas for years, the FDLR have dominated most mining activities, Congolese army officers, mostly members of the ex-CNDP rebel group, have replaced them over the course of the last couple of years. Ex-CNDP officers have been able to establish their domination over mining operations in North and South Kivu through various military offensives aimed at armed groups in the region, which pushed the FDLR and *Mayi-Mayi* groups to more remote and smaller, less lucrative mines. Since both the national army and the armed groups have an interest in the continuation of the status quo, which allows them to make a profit from the minerals, they commit human rights abuses to create an insecure environment. While the economic incentive structure has not been the primary cause of the conflict, the revenues provide an important way for the conflict actors to sustain their struggle and to make a personal profit at the same time.

### c. The Supply Chain

The supply chain of minerals from the mines

in Eastern Congo to the end users in Europe, the US, and Asia is highly complex and non-transparent. Yet, Congolese minerals make their way, through a number of intermediate steps, into electronic devices such as televisions and mobile phones, jewellery, cutting tools, aircraft engines, and medical devices.<sup>8</sup> The journey of the so-called conflict minerals – the 3Ts (tin, tantalum, and tungsten) and gold – begins at one of the hundreds of mining sites of Eastern DRC, which are either controlled by landowners, local leaders, illegal armed groups or units of the Congolese army.<sup>9</sup> From the mines, local traders (*'négociants'*) transport the minerals on foot or by motorcycle, truck or plane to trading houses in the major provincial towns such as Goma, Bukavu, Butembo, and Uvira. Parts of the minerals also get smuggled directly to the capitals of neighbouring countries such as Bujumbura, Kigali, and Kampala.<sup>10</sup> Already in the mines, as well as at various points along the mineral routes to the trading houses, rebel groups, the regular Congolese army, and official mining officials levy illegal taxes.<sup>11</sup>

At the trading houses (*'comptoirs'*), minerals are sorted and processed for the first time.<sup>12</sup> International traders or exporters buy the processed minerals from one or more trading houses without knowing if the product they buy is conflict-free, meaning that it comes from a free mine, not controlled by illicit armed or military groups, and has not been subject to illegal taxes. At present, the only system international traders use to verify that the minerals they buy are conflict-free is a verbal assurance.

The supply chain becomes even more convoluted at the refinery stage. Metal processing companies or refineries, mainly based in Asia, but also in Europe, the US, and the Middle East, melt or chemically process mineral ores together with other metals to create a new metal. Refiners

7. IPIS, Mapping Conflict Motives: Eastern DRC, 2008, p. 14; Human Rights Watch, *Always on the Run*, September 2010, p. 4.

8. BSR, Conflict Minerals and the Democratic Republic of Congo: Supply Chain, Government and Capacity Building, May 2010, p. 8.

9. Make IT Fair, *Voices from the Inside. Local Views on Mining Reforms in Eastern DR Congo*, October 2010, p. 7; International Alert, *The Role of Exploitation of Natural Resources in Fuelling and Prolonging Crises in Eastern DRC*, January 2010, pp. 24 -25.

10. Enough Project, *From Mine to Mobile Phone. The Conflict Mineral Supply Chain*, November 2009, p. 2; International Alert, *The Role of Exploitation of Natural Resources in Fuelling and Prolonging Crises in Eastern DRC*, January 2010, p. 37.

11. Pact, PROMINES Study, *Artisanal Mining in the Democratic Republic of Congo*, June 2010, p. 40.

12. Enough Project, *From Mine to Mobile Phone. The Conflict Mineral Supply Chain*, November 2009, p. 3.

finally sell the processed metals, often containing conflict minerals, to international companies worldwide, which use them to produce and assemble a wide array of consumer goods.<sup>13</sup>

With every step in the supply chain, it becomes more difficult to trace the origin of minerals. The refining stage in particular, makes it impossible to point to specific multinational companies that use Congo's conflict minerals in their products. Even though no multinational company can be named with certainty for buying conflict minerals, the electronic sector as a whole is the biggest user of Congo's 3Ts (tin, tantalum, and tungsten) worldwide.<sup>14</sup> Electronic companies buy the processed metals either directly from smelters or from sub-stage manufacturers. Their importance for Congo's mineral sector became most recently visible in April of this year when the two main global electronic lobby groups withdrew from the region. The US Electronic Industry Citizenship Coalition (EICC), which comprises 45 global electronic companies, including Microsoft, Apple, HP, and Dell, and the Brussels-based Global e-Sustainability Initiative (GeSI) of ICT companies stopped buying from smelters unable to prove that they do not source Congo's conflict minerals.<sup>15</sup> Their decision immediately led to a de facto embargo of minerals from Central Africa, which undoubtedly shows the importance of electronic companies for Congo's mineral sector.

... 03.

## Ending the Conflict: National and International Interventions

### a. Negotiations and Integration Efforts

Many soldiers of the estimated 120,000 strong national army, the Congolese Armed Forces (FARDC), are former rebel members who have been integrated following various peace deals and integration efforts: the 'brassage' during the political Transition, the 'mixage' in 2007, and the recent 'in-site rapid integrations'. The incorporation processes have often been incomplete, however, leaving ex-rebels loyal to their former rebel commanders and resulting in many defections.<sup>16</sup> The integration of the CNDP in early 2009 has been the most important one in terms of changing the landscape of the conflict. The CNDP agreed to be integrated into the national army and to be recognised as a political party as a result of the Congolese-Rwandan rapprochement that allowed for military operations against CNDP's arch-enemy, the FDLR.<sup>17</sup> In an accelerated integration process, 5800 CNDP fighters, out of the 7000, registered into the FARDC. However, they have maintained a separate command structure within the FARDC and they exert a high degree of decision-making influence in most military units in the east.<sup>18</sup> They also continue to control most parts of the territories of southern North Kivu where its former parallel administration and taxation system are maintained<sup>19</sup> and they have extended their de facto control over most of South and North Kivu.

13. Ibid, p. 6.

14. Enough Project, *Can You Hear Congo Now? Cell Phones, Conflict Minerals, and the Worst Sexual Violence in the World*, April 2009, pp. 2-3; Enough Project, *From Mine to Mobile Phone. The Conflict Mineral Supply Chain*, November 2009, p. 7.

15. The decision came in anticipation of the promulgation of the rules of the US law on 'conflict minerals' on 1 April 2010. See section on due diligence measures. Reuters, *Conflict mineral rules to pressure Congo miners*, 1 April 2011.

16. Human Rights Watch, *Always on the Run*, September 2010, p. 3; UN Group of Experts, report, November 2010, p. 13, point 25; International Crisis Group, *Congo: No Stability Despite a Rapprochement with Rwanda*, November 2010, p. 6.

17. International Crisis Group, *Congo: No Stability in Kivu Despite a Rapprochement with Rwanda*, November 2010, pp. 1-4. Bosco Ntaganda, who was indicted by the ICC in 2006 for crimes committed in Ituri, north-eastern DRC between 2002 and 2004, became the leader of CNDP and was made general and deputy commander of the military operations against armed groups in the east.

18. IPIS, unpublished report, February 2010, pp. 40 and 43. International Crisis Group, *Congo: No Stability in Kivu Despite a Rapprochement with Rwanda*, November 2010, p. 13.

19. International Crisis Group, *Congo: No Stability in Kivu Despite a Rapprochement with Rwanda*, November 2010, pp. 14-15; UN Group of Experts, report, November 2010, p. 3 and p. 43, point 157; UN Secretary-General, *Report on MONUSCO in DRC*, May 2011, p. 3; Enough Project, *Field Dispatch: Tensions in North Kivu*, January 2010.

As recently as February of this year, the government attempted to negotiate a deal with the FDLR as well. Reportedly, a pre-deal was signed mid-March, which would have involved the relocation of FDLR headquarters from North Kivu to the province of Maniema and a general cease-fire.<sup>20</sup> A similar idea of temporarily relocating disarmed FDLR had already been developed in an earlier demobilisation framework in 2007.<sup>21</sup> The negotiations failed in June 2011, however, due to the refusal by the military arm of the FDLR, 'Forces Combatantes Abacunguzi' (FOCA), to relocate.<sup>22</sup>

### b. Military Operations

Despite past attempts at demobilising the FDLR, unofficial cooperation between FARDC officials and the FDLR existed until the end of 2008.<sup>23</sup> When geo-political arrangements and priorities shifted in late 2008,<sup>24</sup> the Congolese government changed its strategy, conducting three military operations against the FDLR in the Kivus starting in early 2009.<sup>25</sup> Through these military operations, FARDC has disrupted the activities of the FDLR to a certain extent, but has not been able to defeat them.<sup>26</sup> The civilian population suffered from human rights violations while being accused of complicity by both sides. Large population displacements were observed in North and South Kivu.<sup>27</sup> While the conduct of the military operations has slowed down since February this

year, they are planned to be continued into the foreseeable future.<sup>28</sup>

### c. Military Reorganisation

To tackle the fractured national army, the government launched a process of transforming the FARDC in early 2011. During the last several months, FARDC brigades had been withdrawn from their bases in North and South Kivu, including those near major mining sites, for training and eventual redeployment in the form of regiments. The restructuring is geared towards eliminating the parallel chains of command and soldiers' loyalties to former rebel commanders. Paradoxically, the withdrawals have led to further insecurity in the region as they have opened up unprotected territories that the FDLR and Mayi-Mayi groups have come to fill.<sup>29</sup> The deployed mining police have also been ineffective in protecting mining sites from rebel incursions.<sup>30</sup> Some of the regiments have been redeployed in the last few weeks, while the full redeployment is expected anytime soon now that the regimentation process has been completed.<sup>31</sup> It will have to be seen whether the regiments will be capable of retaking control of the territory and protecting the population.

### d. International Sanctions

The United Nations Security Council (UNSC) imposed an arms embargo on Congo in 2003,<sup>32</sup>

20. Congo Siasa, Deal between Kinshasa and the FDLR?, 26 March 2010; Het Belang van Limburg, Belg is bemiddelaar tussen Kabila en Rwandese milities, 8 June 2011.

21. Congo Siasa, Deal between Kinshasa and the FDLR?, 26 March 2010; Joint communiqué between the governments of the DRC and Rwanda of 21 November 2007: <http://www.securitycouncilreport.org/atf/ct/%7B65BFC9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/DR%20S2007%20679.pdf>

22. IPIS interview, DDRRR MONUSCO, Goma, 7 October 2011.

23. The Congolese government openly collaborated with the FDLR until 2002 when Rwandan and Ugandan troops withdrew from Congo in return for the demobilisation of FDLR combatants. International Crisis Group, Congo: No Stability in Kivu Despite a Rapprochement with Rwanda, November 2010, p. 4.

24. President Kabila and President Kagame concluded a secret deal in November 2010, which included a joint anti-FDLR military offensive and the start of direct negotiations between the Congolese government and the CNDP, which led to their integration into the national army.

25. Umoya Wetu started on 20 January 2009, was conducted by Congolese and Rwandan coalition forces in the southern part of North Kivu, and lasted for 35 days; Kimia II started in March 2009, was conducted by Congolese forces with support of MONUSCO, the UN peacekeeping force in the DRC, in North as well as South Kivu, and ended in December 2009; and Amani Leo took off in January 2010 in North and South Kivu with conditional MONUSCO support. Amani Leo is still underway, but has slowed down since the end of last year. See UN Group of Experts, interim report, June 2011, p. 9, point 32.

26. Congo Siasa, Exclusive: Interview with UN Group of Experts, December 3, 2010; UN Group of Experts, report, November 2010, p. 13, point 27 and p. 27, point 90; UN Secretary-General, Report on MONUSCO in the DRC, January 2011, p. 3.

27. UN Secretary-General, Report on MONUSCO in DRC, May 2011, p. 3, points 12-13; UN Group of Experts, report, November 2010, p. 27, point 91.

28. Le Président Kabila face à la presse: « Le Congo avance, et ceux qui pensent qu'ils ne peuvent pas avancer avec nous peuvent rester », 18 October 2011: [http://www.ambarcdc.eu/index.php?option=com\\_content&view=article&id=92:le-president-kabila-face-a-la-presse-l-le-congo-avance-et-ceux-qui-pensent-quis-ne-peuvent-pas-avancer-avec-nous-peuvent-rester-r&catid=42:rokstories](http://www.ambarcdc.eu/index.php?option=com_content&view=article&id=92:le-president-kabila-face-a-la-presse-l-le-congo-avance-et-ceux-qui-pensent-quis-ne-peuvent-pas-avancer-avec-nous-peuvent-rester-r&catid=42:rokstories)

29. UN Secretary-General, Report on MONUSCO in DRC, May 2011, p. 3, point 13.

30. Such as the temporary occupation of Bisie, the major cassiterite mine in North Kivu, by a Mayi-Mayi group in April this year. Radio Okapi, Wail-kale : les FDLR se retirent de la carrière minière de Bisiye, 28 April 2011.

31. Radio Okapi, Nord-Kivu: fin de la formation des régiments d'infanterie des FARDC, 8 October 2011.

32. UNSC resolution 1493 (2003).

targeting all foreign and Congolese armed groups in North and South Kivu, among others. The arms embargo has been modified and strengthened in subsequent resolutions. Since 2008,<sup>33</sup> the embargo has been specifically applied to non-governmental entities and individuals operating in Eastern DRC. For entities and individuals in breach of the arms embargo, resolution 1596 (2005) allows for asset freeze and travel bans. Resolution 1857 (2008) extends these sanctions to individuals and entities supporting illegal armed groups in Eastern DRC through the illicit trade of natural resources; political and military leaders of foreign armed groups operating in the DRC; Congolese militias with foreign support; political and military leaders recruiting or using child soldiers; and individuals violating international law by targeting children and women, including killing and sexual violence; and political and military leaders disrupting humanitarian assistance in the eastern part of the DRC. Several entities and individuals who are in violation of the arms embargo have been put on a travel ban and assets freeze list,<sup>34</sup> maintained and updated by the Sanction Committee.<sup>35</sup> No similar sanctions have been put on individuals or entities in breach of resolution 1857, despite the mentioning of names and their illegal activities by the UN Group of Experts<sup>36</sup> in their annual reports.<sup>37</sup>

In 2009, the UN Security Council has asked the UN Group of Experts to develop guidelines for the exercise of due diligence for importers, processing industries, and consumers regarding their purchase and sourcing of mineral products from the DRC.<sup>38</sup> Following the 2010 report of the Group, which includes extensive guidance on

due diligence, the UN Security Council decided that from now on, the UN Sanction Committee should when deciding on sanctions take into account whether or not an individual or entity has exercised due diligence.<sup>39</sup>

### e. Formalising the Mining Sector National Measures

While the Congolese Mining Code and the Labour Code regulate work in the mining sector, in practice, artisanal and small-scale mining remains largely outside the legal framework.<sup>40</sup> Challenges to formalising the mining sector and stopping conflict financing through minerals are manifold. Besides a lack of political will, the feasibility of mechanisms to formalise the mining sector is especially problematic. According to civil society members in Eastern DRC, the lack of state control over transport routes between mines, trading centres, and export towns, which enables the imposition of illegal taxes, is a major problem.<sup>41</sup> Another challenge is the low level of schooling of public officials and the limited information they receive about rules and regulations. The lack of personnel and the difficult working conditions in the conflict-ridden east also complicate the effective implementation of formalisation measures.<sup>42</sup>

President Kabila took a different approach of tackling the informal mining sector, outside the frame of regulations and rules, last year. He suspended all exploitation and export of minerals from North and South Kivu and neighbouring Maniema early September 2010.<sup>43</sup> Officially, the ban was intended to put an end to the mafia-like networks, including military units, involved in the

33. UNSC resolution 1807 (2008).

34. [http://www.un.org/sc/committees/1533/pdf/1533\\_list.pdf](http://www.un.org/sc/committees/1533/pdf/1533_list.pdf)

35. <http://www.un.org/sc/committees/1533/>

36. The Group of Experts is mandated by Resolution 1533 (2004) to support the work of the Sanctions Committee by monitoring the implementation of the sanctions regime with particular focus on North and South Kivu and Ituri.

37. UN Group of Experts, final reports, November 2010; [http://www.un.org/ga/search/view\\_doc.asp?symbol=S/2010/596](http://www.un.org/ga/search/view_doc.asp?symbol=S/2010/596) and November 2009: [http://www.un.org/ga/search/view\\_doc.asp?symbol=S/2009/603](http://www.un.org/ga/search/view_doc.asp?symbol=S/2009/603)

38. UNSC resolution 1896 (2009).

39. Chapter IX S/2010/596 p. 83; UNSC resolution 1955 (2010).

40. Pact, PROMINES Study. Artisanal Mining in the Democratic Republic of Congo, June 2010, p. 5.

41. Make IT Fair, Voices from the Inside. Local Views on Mining Reform in Eastern DR Congo, October 2010, pp. 19-22.

42. Make IT Fair, Voices from the Inside. Local Views on Mining Reform in Eastern DR Congo, October 2010, pp. 19-22; International Alert, The Role of Exploitation of Natural Resources in Fuelling and Prolonging Crises in Eastern DRC, January 2010, p. 22.

43. Communiqué du Ministre des Mines en rapport avec la décision du Président de la République sur la suspension de l'exploitation minière, 11 September 2010; Radio Okapi, Waikale: Joseph Kabila suspend l'exploitation minière, 10 September 2010; Rwanda News Agency, Congo mining ban extended to three troubled provinces, 11 September 2010.

44. Communiqué du Ministre des Mines en rapport avec la décision du Président de la République sur la suspension de l'exploitation minière, 11 September 2010; Rwanda News Agency, Congo mining ban extended to three troubled provinces, 11 September 2010.

illicit exploitation and trade of natural resources in Eastern DRC.<sup>44</sup> The imposition of the ban was widely understood as a response to the growing international pressure to end the financing of Congo's conflict through minerals. However, the suspension that ended early March 2011 was not effective. The ban was ignored in different ways and places, ironically allowing the ex-CNDP military units to consolidate their control of mining activities in both North and South Kivu,<sup>45</sup> further raising questions about the government's capacity and willingness of formalising the mining sector and stopping its revenues from perpetuating the conflict.

## International Initiatives

### • Due Diligence Initiatives

The UN Principles on Business and Human Rights, which were prepared by the UN Special Representative for Human Rights and Business, John Ruggie, were endorsed in June 2011 by the UN Human Rights Council. They recognise the corporate responsibility to respect human rights, which exists independently of States' human rights duties and applies to all companies in all situations.<sup>46</sup> In order to meet their responsibility to respect human rights, companies should have a "human rights due diligence process" in place to identify, prevent, mitigate, and account for how it addresses its impacts on human rights.<sup>47</sup>

"Due diligence" is a legal expression, which refers to a certain standard of care. It is not a norm in itself, but a process whereby individuals and entities discharge their responsibilities with reference to a given standard. The concept, which has been used in private law for a long time, was introduced to define the scope of the corporate responsibility to respect human rights – including the human rights addressed by international labour standards – by John Ruggie in his 2008 report, which closed the first period of his UN

mandate.<sup>48</sup> Due diligence has since become widely accepted as a global standard. For example, when the OECD Guidelines for Multinational Enterprises were renewed in 2011, this aspect of due diligence was also included.<sup>49</sup>

Due diligence is based on the idea of what would be reasonable in a given situation. Companies operating in or sourcing from conflict areas or weak states, such as the DRC, are at risk of becoming complicit in human rights abuses committed by other actors, such as, for example, security forces.<sup>50</sup> Because that risk is great, the companies concerned must take extraordinary measures to avoid complicity. In places where governance is weak, a company may indeed more easily have a negative impact on human rights, because of the lack of the state's capacity to control its territory and to respect and protect people's rights. Yet, the high demand for rare resources located in conflict or weak states continues to create strong incentives for companies to source from such areas.

Numerous reports by the UN Group of Experts and civil society have illustrated the role of the mineral trade in perpetuating and exacerbating the conflict in Eastern DRC. The electronic industry has been the target of several campaigns as it is the main buyer of minerals from Eastern DRC. Today, the majority of the multinational companies in that business claim their products come from a clean supply chain, but they can hardly prove it. In many cases, the only system that end-users use to avoid buying minerals from an area of conflict, is an assurance, either verbal or written, of the supplier. However, that supplier is in most cases not in a position to track down the origin of the minerals, given the length and the complexity of the supply chain. In addition, the informal nature of the supply chain makes it easy for minerals of dubious origin to enter the market.

45. Enough Project, *Why a Certification Process for Conflict Minerals is Urgent*, February 2011, p. 8.

46. Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises. A/HRC/14/27.

47. Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises. A/HRC/14/27, Principle 15.

48. A/HRC/8/5, p.17.

49. OECD Guidelines for Multinational Enterprises (OECD, 2011).

50. Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises. A/HRC/14/27, Principle 23, Commentary.

### • The OECD Due Diligence Guidance

The 'OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas' (hereafter 'the Guidance') was finalised in December 2010, after comprehensive multi-stakeholder discussions. Besides a wide range of governments, industry and civil society representatives, the initiators of other due diligence, traceability, and certification endeavours also participated in the development of the Guidance. The text was endorsed by the eleven member states of the International Conference on the Great Lakes Region (ICGLR) in the Lusaka Declaration<sup>51</sup> and by the UN Security Council in resolution 1955. In addition, the OECD Council during the May 2011 Ministerial Meeting adopted a resolution recommending all members and non-members to actively support the Guidance. The Guidance has thus become the point of reference for the due diligence standards to be applied to the supply chain of minerals from Eastern DRC.

In the OECD Guidance, due diligence is defined as an on-going, proactive, and reactive process through which companies can ensure that they respect human rights and do not contribute to conflict.<sup>52</sup> Although the Guidance focuses on the mineral supply chain, the framework can be used for any type of supply chain. With intensive input from all stakeholders of the sector, a supplement on the implementation of the Guidance in the sector of the 3Ts (tin, tantalum and tungsten) was developed. A supplement on gold is currently being finalised.

The OECD Guidance is a well-developed document that gives advice on how to translate the theoretical due diligence concept into practice through the implementation of a 5-step framework. As part of this framework, companies are advised to publicly report on their supply chain due diligence policies and practices and to have their due diligence practices audited by independent third parties.

However, adherence to the Guidance is voluntary and its enforcement is dependent upon the goodwill of the actors involved.

### 5-step due diligence framework:

1. Establish strong company management systems
2. Identify and assess risk in the supply chain
3. Design and implement a strategy to respond to identified risks
4. Carry out independent third-party audit of supply chain due diligence at identified points in the supply chain
5. Report on supply chain due diligence

The due diligence framework helps companies identify the risks and review the choice of their suppliers and sourcing decisions accordingly. But in order to be able to identify and address actual or potential risks, companies have to know the origin of the minerals they are buying. Therefore, they need to develop a system – a traceability scheme, for instance – to be able to physically track minerals at all points of the trading system and to create a paper chain of information that moves along the supply chain with the minerals. This introduction of a chain of custody and/or traceability system in order to trace the origin of the minerals is a welcome development.

Another interesting aspect of the Guidance is its call to support host countries governments' efforts for the progressive formalisation of the artisanal sector, as one suggestion to minimise "the risk of exposure of artisanal miners to abusive practises". This recommendation certainly deserves the support of companies, international organisations and the Congolese government itself.

At this stage, it is too early to assess whether the OECD Guidance will be able to deliver on its main objective, which is to ensure that companies do not contribute to conflict nor undermine human rights in the countries which they operate in or source from. A key point though to ensure the success of the Guidance is to make sure that the interests of the people at the bottom of the

51. Adopted on 15 December 2010.

52. OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas, p. 6.

supply chain - the workers in the mines and their families - are fairly represented during the implementation of the 5-step due diligence framework. Where those workers have trade unions, this will mean that the trade unions must be engaged by the companies as part of their due diligence.

### • The Dodd-Frank Act

Following years of hard lobbying by human rights groups, in July 2010 the US Senate adopted the Dodd-Frank Act, which contains provisions (section 1502) intended to break the link between the conflict in Eastern DRC and the minerals trade. Under this Act, any company offering its securities for sale to the general public in the US, and whose products contain coltan (columbite-tantalite), cassiterite, gold or wolframite, will have to disclose on a yearly basis whether these minerals originate from the DRC or an adjoining country.<sup>53</sup> Not only US-based companies are required to report, but also foreign companies that are trading on any of the stock exchanges in the US. If minerals originate from the DRC, the company must submit an annual report to the U.S. Security and Exchange Commission (SEC)<sup>54</sup> on the due diligence measures they have taken. The task of defining due diligence was given to the SEC. In the meantime, the US Department of State has endorsed the OECD Guidance, and encourages companies to draw upon it as they establish their due diligence practices.

Since the Dodd-Frank Act entered into force, only three out of 29 trading houses (or 'comptoirs') are still exporting minerals without undertaking any type of due diligence measures. These three trading houses are Chinese-owned businesses exporting minerals to Asian companies, who are not subject to the Dodd-Frank Act and do not ask any questions about the minerals' origin. To counter this situation, most ICGLR member States are in the process of making the exercise of due diligence mandatory for companies operating under their jurisdiction. In the DRC, the

national Minister of Mines has incorporated the obligation to exercise due diligence through a 'note circulaire', which entered into force on the 6th of September 2011.<sup>55</sup>

Section 1502 of the Dodd-Frank Act has been the source of heated debates amongst trade unions, civil society organisations and the various economic actors in the supply chain. While the disclosure obligation is a good starting point, in practice, it has created a situation of quasi-embargo on Congolese minerals. This seems to have increased the illegal traffic in minerals, with products extracted in the DRC being illegally transported to mine sites of other countries in order to conceal the real source.

It is difficult to evaluate the extent of today's illegal trade. Officially, almost no minerals have been exported from the Kivu provinces in the last months. It is clear, however, that many artisanal miners in these provinces continue digging and selling their minerals through illegal channels.

Furthermore, it may be argued that, so far, the way companies have carried out due diligence has not improved working and living conditions of the population of Eastern DRC. Indeed, these processes may have made matters worse. Important end-users of minerals, such as the producers of mobile phones and computer hardware, have reacted to the adoption of the Dodd-Frank Act by officially distancing themselves from all minerals originating from the conflict-affected provinces in Eastern DRC. This has negatively affected the economic activity in the region and reduced the livelihood of many artisanal miners for whom minerals are the only source of income.<sup>56</sup>

The disclosure obligation under the Dodd-Frank Act is an important step in the right direction. However, at this stage, it is not clear whether the due diligence measures provided under the Act sufficiently address the interests of the miners and their families.

53. IPIS Guide to Current Mining Reform Initiatives in Eastern DRC, 2011, p10.

54. The mission of the U.S. Securities and Exchange Commission is to protect investors, maintain fair, orderly, and efficient markets, and facilitate capital formation.

55. A scanned version of this 'note circulaire' can be found on the Global Witness website: [http://www.globalwitness.org/sites/default/files/library/Note\\_Circulaire\\_OECDguidelines\\_06092011.pdf](http://www.globalwitness.org/sites/default/files/library/Note_Circulaire_OECDguidelines_06092011.pdf)

56. International Crisis Group, Europe can improve upon US's 'conflict minerals' legislation, 18 October 2011.

Some efforts with a clearer focus on the human rights of artisanal mine workers have been undertaken. The International Labour Organisation (ILO), for instance, has organised some trainings for cooperatives in Katanga, and some local organisations such as CENADEP ('Centre national d'appui au développement et à la participation populaire') do valued work on the ground, for instance in establishing cooperatives in Province Orientale. These initiatives and similar ones should be repeated, geographically extended, and intensified.<sup>57</sup>

#### • Initiatives in the European Union

After the Dodd-Frank Act was passed in the US Senate, pressure has been put on the EU, one of the world's largest importers of raw materials, to create similar legislation.

The European Parliament adopted several resolutions calling upon the Commission to take legislative action on conflict minerals, but the Commission, so far, has not responded<sup>58</sup>. The EU had in the past established a legal framework on blood diamonds and illegally logged timber<sup>59</sup>.

In 2010, the European Commission published a report on the existing legal framework for human rights and the environment applicable to European companies operating outside of the EU<sup>60</sup>. This report brought to light several weaknesses in the legislation, but so far the EU has not addressed them.

A proposal by the Commission on the disclosure of non-financial information is expected for the first half of 2012. Trade unions and civil society groups have requested the EU to establish a legal obligation for companies to report on any risk of violation of international human rights and environmental standards. They also demand that companies report on the measures they take to address these risks.

However, to respond to the specific challenges of the Eastern DRC mineral sector, a specific initiative such as it exists for diamonds and timber, might be more efficient.

#### • Extractive Industries Transparency Initiative (EITI)

The Extractive Industries Transparency Initiative (EITI) is a voluntary initiative established in 2002 by former British Prime Minister Tony Blair. The aim of EITI is to promote good governance through the disclosure of revenue flows generated by the natural resource sector and to encourage transparency regarding revenues received by government bodies.<sup>61</sup> EITI brings together governments, private sector companies, and civil society organisations, to develop mechanisms through which companies fully disclose their tax payments and governments their receipts of these funds.

The DRC government formally adopted the EITI principles in 2005 and established an EITI implementation committee. The committee conducted two studies in 2006 concerning the copper, cobalt, and diamond sectors. However, while rapid implementation of the EITI was a priority for the Congolese government, the elections and the installation of a new government during the second half of 2006 delayed the process. At an EITI meeting in Oslo in October 2007, the DRC had to submit evidence of its efforts to enforce the terms of the initiative. Nonetheless, the DRC did not comply with all the required criteria, which led the EITI board to give the Congolese government extra time to comply.<sup>62</sup> At the EITI meeting in Accra on 22 February 2008, the DRC was accepted as an EITI candidate member state. On 14 December 2010, the EITI granted the DRC the status of an EITI candidate country that is 'close to compliant,' after which the country was given a new deadline to achieve compliance. Finally, on

57. Pact, PROMINES Study. Artisanal Mining in the Democratic Republic of Congo, June 2010, p. 52.

58. See <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP/TEXT+TA+P7-TA-2010-0350+0+DOC+XML+V0/EN> and <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P7-TA-2010-0482&language=EN&ring=P7-RC-2010-0693>.

59. The Forest Law Enforcement, Governance and Trade (FLEGT) and the Kimberley Process Certification Scheme (KPCS).

60 [http://ec.europa.eu/enterprise/policies/sustainable-business/corporate-social-responsibility/human-rights/index\\_en.htm](http://ec.europa.eu/enterprise/policies/sustainable-business/corporate-social-responsibility/human-rights/index_en.htm) (last accessed on 5 November 2011).

61. The EITI Strategy Working Group: a summary of Publish What You Pay views, August 2011 (<http://www.publishwhayoupay.org/resources/summary-pwyp-contributions-consultation-future-eiti/>); Make IT Fair, Voices from the Inside. Local Views on Mining Reforms in Eastern DR Congo, October 2010, p. 17.

62. World Bank, Democratic Republic of Congo. Growth with Governance in the Mining Sector, May 2008, pp. 31-32.



Here lie our sisters buried alive, October 1999

29 August 2011, the EITI decided to renew the EITI candidate status for eighteen months until 1 March 2013. By then, the country will be required to have completed an EITI validation.<sup>63</sup>

Today in the DRC, EITI reporting has only been made obligatory for companies involved in oil, wood, and copper. In practice, EITI reporting is only implemented by big companies. Artisanal

and small-scale mining has been left out, despite the importance of this sector worldwide. In the DRC alone, 12.5 million people depend on artisanal and small-scale mining for their livelihoods.<sup>64</sup> So far, the EITI has not proved to be an efficient tool to increase transparency of the mining sector in the DRC.

63. EITI, DR Congo's status as EITI Candidate renewed, 31 August 2011 (<http://eiti.org/news-events/dr-congos-status-eiti-candidate-renewed>).

64. N. Garrett, The Extractive Industry Transparency Initiative (EITI) & Artisanal and Small-Scale Mining (ASM). Preliminary Observations from the Democratic Republic of the Congo (DRC), October 2007.

65. N. Garrett, Walkale. Artisanal Cassiterite Mining and Trade in North Kivu, CASM, June 2008, p.12.

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# 02.

## ARTISANAL MINING IN EASTERN DRC

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### **01. Working and Living Conditions of Artisanal Miners**

- a. Working conditions
- b. Safety and Health Risks
- c. Forced Labour
- d. Child Labour

### **02. Women in the Mining Sector**

- a. Activities of Women
- b. Gender Discrimination
- c. Sexual and Gender-Based Violence
  - Prostitution
  - Rape and Forced Marriage
  - Health Consequences

### **03. International and National Labour Standards**

- a. International Labour Standards
  - Freedom of Association and the Right to Collective Bargaining
  - Discrimination and Equal Remuneration
  - Child Labour
  - Forced Labour

## ... 01.

# Working and Living Conditions of Artisanal Miners

### a. Working conditions

Economic collapse, social instability, and resource plunder have resulted in the proliferation of mining sites with little or no respect for law and order.<sup>65</sup> State and non-state security forces and illegal armed groups take advantage of the lawlessness and levy illegal taxes on miners.<sup>66</sup> Artisanal miners are poorly paid; in North Kivu, they receive between 1\$ and 5\$ a day.<sup>67</sup> Wages in North and South Kivu tend to be much lower than in other provinces. The estimated annual salary in cassiterite and coltan mines of North and South Kivu is 800\$, which is around a third of what artisanal miners earn in western provinces.<sup>68</sup> For the majority of artisanal miners, salaries are insufficient to cover basic needs for them and their families. Prices around mining sites are very high as a result of their geographical remoteness, which requires nearly everything to be flown in by airplane. A chicken, for instance, can cost as much as 12\$ to 15\$. A family relying on two wage earners works between two and eight days to be able to afford one chicken.<sup>69</sup> There are only limited employment alternatives, so that men, women, and children continue to flock to mining areas to make a living despite the poor conditions.<sup>70</sup>

While the 2006 Constitution guarantees the right to form and join trade unions, authorities apply the principle of divide and rule by purposely encouraging the proliferation of hundreds of trade unions. There are reported to be around 500 officially recognised trade unions in the DRC

today. The functioning of these unions appears to be severely thwarted by self-interest and corruption<sup>71</sup> and has not effectively helped to protect the rights of workers.

### b. Safety and Health Risks

Apart from low wages, miners face an array of other challenges. Outside state regulation, they work without rudimentary safety equipment such as proper footwear, hard hats, and protective eyewear and clothing, which often results in injuries. They spend hours underground without proper ventilation and landslides and collapses of shafts are frequent.<sup>72</sup> Working in mines, also exposes workers to severe health risks, including silicosis, conjunctivitis, bronchitis, tuberculosis, asthma, diarrhoea, and skin lesions. They furthermore deal with malnutrition, exhaustion, physical traumas, and the risk of getting infected with sexually transmitted diseases, which are widespread in mining settlements. Under these severe conditions, alcohol and drug abuse are common phenomena.<sup>73</sup> To make matters worse, mining sites lack proper sanitary facilities and safe drinking water and health centres are typically kilometres away.<sup>74</sup>

### c. Forced Labour

While many venture to mining areas voluntarily to try to make a living, several forms of forced labour exist. Armed groups and soldiers force people, and sometimes whole villages, at gunpoint to work as diggers, transporters, and processors for free. During the mining suspension, for example, FARDC soldiers raided the trading village of Ndjingala by night and brought its youth to the mining site of Bisie, the major cassiterite mine of North Kivu. Put in army uniform, they were forced to mine under armed supervision. They were neither paid nor could they possibly escape. Another system of mandatory labour, called *salongo*,<sup>75</sup> of workers present in mines is

66. Ibid.

67. Ibid, p. 46.

68. SIPRI, Artisanal Mining and Post-Conflict Reconstruction in the Democratic Republic of Congo, October 2009, pp. 1-2.

69. Field research by IPIIS, Goma, September 2011.

70. SIPRI, Artisanal Mining and Post-Conflict Reconstruction in the Democratic Republic of Congo, October 2009, p. 1.

71. ITUC, ITUC Annual Survey. Congo, Democratic Republic, 2011, p.25.

72. World Bank, Democratic Republic of Congo, Growth with Governance in the Mining Sector, May 2008, pp. 58-59.

73. Free the Slaves, The Congo Report, June 2011, pp. 7-8.

74. World Bank, Democratic Republic of Congo, Growth with Governance in the Mining Sector, May 2008, pp. 58-59.

75. 'Salongo' means work in Lingala.

also practised. Miners are obliged to work for a designated government official, military leader, or an armed group on a particular day of the week. Refusal can result in a fine or even torture. Debt bondage is also common. New arrivals are required to borrow money at unrealistically high interest rates to buy mining tools and to pay for their living expenses. The earnings are insufficient to pay off the debt, which is a concern for most indebted miners as they fall yet deeper indebted. Debts range from under 100 USD to over 1000 USD. Lenders are generally shaft and pit supervisors, mineral buyers, and traders. In Bisie, for example, around 90% of miners are indebted to and thus dependent on mineral traders.<sup>76</sup>

#### d. Child Labour

Children comprise about 40% of the population at mining sites.<sup>77</sup> Extreme poverty and the lack of schools and other activities force families to send their children to work in mining sites.<sup>78</sup> Children work up to 8 hours a day without meals or breaks.<sup>79</sup> They are engaged in virtually all mining activities, including rock-breaking, transporting, washing, and ore crushing. They work under physically demanding conditions, causing deformed muscles and bones for a meagre income of less than a dollar a day. It is also not uncommon for them to go unpaid.<sup>80</sup> Children as young as six years old, like a boy found working in the mining site of Bibatama in Masisi, North Kivu, are powerless to claim their rights.<sup>81</sup>

## ... 02.

# Women in the Mining Sector

### a. Activities of Women

It is estimated that women constitute between 20% and 50% of the total population in mining sites in the DRC as a whole.<sup>82</sup> In North and South Kivu, the percentage is believed to be around 30-40%.<sup>83</sup> Women rarely participate in core mining activities, but rather do secondary tasks such as manual transport and processing raw material, i.e. crushing, washing, and sorting ore. Women also provide services, including selling alcohol, food, soap, and charcoal, etc., and working as housemaids, in restaurants and bars, and as prostitutes. Many women who work in restaurants and bars indulge in prostitution at the same time.<sup>84</sup>

### b. Gender Discrimination

Under Congolese law and constitution, women have equal right to participate in mining activities.<sup>85</sup> In various mines in North and South Kivu women are limited in choosing their tasks, however. The discrimination against women stems from cultural perceptions of what is acceptable work for women and beliefs that the presence of women in mines negatively affects the amount of minerals that will be found.<sup>86</sup> In major mines of North Kivu such as Bisie or Omate, for example, women are not authorised to enter the working sites and thus they do not mine or transport minerals.<sup>87</sup> Women only dig in minor mines that get neglected by men.<sup>88</sup> Secondary mining operations are poorly paid.<sup>89</sup> For example, a group

76. Free the Slaves, The Congo Report, June 2011, pp. 12-16.

77. World Bank, Democratic Republic of Congo. Growth with Governance in the Mining Sector, May 2008, p. 58.

78. Ibid; Field research by Assodip, Masisi, October 2011.

79. Field research by Assodip, Masisi, October 2011.

80. Ibid; Free the Slaves, The Congo Report, June 2011, pp. 7-8.

81. Field research by Assodip, Masisi, October 2011.

82. World Bank, Democratic Republic of Congo. Growth with Governance in the Mining Sector, May 2008, p. 58.

83. IPIS interview, Search for Common Ground, Goma, 4 October 2011; Interview, Justice pour Tous, Bukavu, 8 October 2011.

84. IPIS interview, Search for Common Ground, Goma, 4 October 2011; Interview, UNTC, Goma, 5 October 2011; IPIS interview, Justice pour Tous,

Bukavu, 8 October 2011; Interview, CEDAC, Bukavu, 8 October 2011; IPIS interview, Assodip, Goma, 11 October 2011.

85. Article 26 of the Mining Code, Law number 007/2002; Article 36 of the Constitution.

86. IPIS interview, Justice pour Tous, Bukavu, 8 October 2011; Pact, Contributing Towards a Post-Conflict Transition in the DRC: Addressing the Security of Artisanal Mining Women in Katanga and Orientale Provinces, p. 93.

87. IPIS interview, CREDDHO, Goma, 6 October 2011.

88. IPIS interview, CREDDHO, Goma, 6 October 2011.

89. Justice pour Tous, Rapport mensuel d'activités sur la situation des femmes exploitées dans les carrières minières dans le territoire de Mwenga, August 2010, p. 3.

of women called 'twangeuses' who crush gold-bearing rocks in Kamituga, a gold mine in South Kivu, are paid by the miners who hired them at the end of the day. If they were unlucky and they only crushed material with no or little gold dust, they receive a limited amount of money.<sup>90</sup> An average day pays 0.7 USD.<sup>91</sup> In general, women get far less paid for the same work as men.<sup>92</sup> At the same time, women are expected to care for the family, fetch firewood, draw water, cook, and clean. Widespread illiteracy among women in mining sites is a major impediment for women to know and claim their rights.<sup>93</sup>

### c. Sexual and Gender-Based Violence

Women in artisanal mining areas are also at high risk of sexual and gender-based violence.<sup>94</sup> Mining camps are dominated by young men far from home, family, and community, and by a rapid cash turnover and high consumption of alcohol and marijuana—a combination that diminishes moral responsibility and increases violent tendencies. In mining settlements where high concentrations of ex-combatants reside, sexual and gender-based violence is especially widespread. However, state and non-state security actors around mines are also responsible for perpetrating sexual and gender-based violence.<sup>95</sup>

#### Prostitution

Prostitutes are a vulnerable target group for sexual and gender-based violence. Prostitution is a major income source for women and girls in mining sites as miners spend a large part of their earnings visiting prostitutes,<sup>96</sup> even though not all men pay for the service they receive.<sup>97</sup> Living

in destitute conditions, some women move to mining areas voluntarily to make an earning as prostitutes; others are sent by their families.<sup>98</sup> Many women are left behind by their husbands who migrate far to mineral rich areas for long periods of time. These women are often forced into prostitution in close-by mines to be able to care for their families.<sup>99</sup> Other women who work in secondary mining activities feel obliged to engage in prostitution because of the low pay. Some 'twangeuses,' for example, explained that they decided to prostitute themselves because of the insufficient pay they receive for crushing rocks.<sup>100</sup>

Prostitutes are generally between the age of 18 and 35, but minors who spend their vacations in mining settlements to work in restaurants and bars, often end up prostituting themselves as well.<sup>101</sup> Sexual relationships with girls are generally preferred,<sup>102</sup> as it is believed, according to local sorcery, to help acquire more wealth and virility.<sup>103</sup> A system of commercial sexual exploitation of young girls has been developed in certain mines. Owners of bars and restaurants, the so-called grand dames, in Bisie and Omate and the close-by trading centre of Mubi, for example, organise young girls into involuntary prostitution.<sup>104</sup> The grand dames promise these girls legitimate employment, luring them away from their families and home villages.

Once arrived, instead of getting paid for their work, the girls are told to be given the opportunity to have sex with men for money.<sup>105</sup> With no alternative to support themselves and their fami-

90. IPIS interview, ALEFEM, Bukavu, 25 May 2010.

91. IPIS interview, Justice pour Tous, Bukavu, 8 October 2011.

92. Pact, *Contributing Towards a Post-Conflict Transition in the DRC: Addressing the Security of Artisanal Mining Women in Katanga and Orientale Provinces*, p. 93; IPIS interview, UNTC, Goma, 5 October 2011.

93. IPIS interview, Centre Olame, Bukavu, 10 October 2011; IPIS interview, Justice pour Tous, Bukavu, 8 October 2011; IPIS interview, CEDAC, Bukavu, 8 October 2011; Justice pour Tous, *Rapport mensuel d'activités sur la situation des femmes exploitées dans les carrières minières dans le territoire de Mwenga*, August 2010, p. 3.

94. WHO: "The term 'sexual and other forms of gender-based violence' comprises not only rape and attempted rape, but also sexual abuse, sexual exploitation, forced early marriage, domestic violence, marital rape, trafficking and female genital mutilation."

95. Pact, *Contributing Towards a Post-Conflict Transition in the DRC: Addressing the Security of Artisanal Mining Women in Katanga and Orientale Provinces*, pp. 14-95.

96. *Ibid.*, pp. 94 and 95.

97. IPIS interview, CEDAC, Bukavu, 8 October 2011.

98. IPIS interview, Search for Common Ground, Goma, 4 October 2011.

99. IPIS interview, Justice pour Tous, Bukavu, 8 October 2011.

100. IPIS interview, ALEFEM, Bukavu, 25 May 2010.

101. *Ibid.*

102. IPIS interview, Assodip, Goma, 11 October 2011.

103. Pact, *Contributing Towards a Post-Conflict Transition in the DRC: Addressing the Security of Artisanal Mining Women in Katanga and Orientale Provinces*, p. 8.

104. *Free the Slaves, The Congo Report*, June 2011, pp. 17-18; IPIS interview, Search for Common Ground, Goma, 4 October 2011.

lies, these young girls often feel obliged to stay. Just to be able to buy a bar of soap, for example, a young girl of the age of 11, stayed to work in a bar in the trading town of Mubi even after she found out that she had to prostitute herself.<sup>106</sup>

### Rape and Forced Marriage

Rape is another common form of sexual violence committed in mining areas. Girls and women of all ages are victims of sexual assault by individuals or groups of men, usually under the influence of alcohol or drugs. Rape is mainly perpetrated by owners of mining shafts, diggers, and members of the army, but also by police and intelligence service (ANP) personnel, and mineral traders.<sup>107</sup> In North Kivu, up to over 60% of perpetrators are civilians, many of them ex-combatants or young men affected by the violent climate of the war.<sup>108</sup>

Mining communities are also characterised by a high number of forced marriages, often with minors.<sup>109</sup> Migrant male miners, especially ex-combatants and current soldiers, often choose to take a second wife or concubine when they establish themselves in mines.<sup>110</sup> In many cases, relationships in mining areas are a form of co-habitation forced upon a woman after she was raped or after an agreed-upon period of serving as a prostitute is over.<sup>111</sup> The 'twangeuses' also conclude so-called 'mining marriages' (kufanya ndoa ku carrière: to marry in the mine), which are temporary and loose alliances between a man who is involved in mining activities and a woman who is prepared to offer free sexual services and food in exchange for a part of his mining revenues.<sup>112</sup> Soldiers and members of armed groups also kidnap girls in close-by villages,

force them to transport and dry minerals during the day and sexually exploit them at night. As a young girl explained, "soldiers came in and pulled off all our clothes... they took us to the forest with them. They became our 'husbands' just by having sex with us."<sup>113</sup> Without their consent, women are also taken over as concubines by commanders of armed groups as the control of mines changes hands.<sup>114</sup>

### Health Consequences

A general culture of unsafe sex persists and women are often forced to engage in unprotected sex, which increases their chances of contracting sexually transmitted diseases (STDs) and HIV/Aids.<sup>115</sup> This is particularly problematic in mining sites with current and demobilised soldiers and members of armed groups who have the highest levels of STDs. HIV/AIDS awareness is low and prevention tends to rely on superstition rather than the use of condoms, testing, and behavioural change. As a result of sexual and gender-based violence, teenage pregnancies and child abandonment have also increased. Again, mining settlements do not provide any health prevention measures as health centres tend to be far away in difficult to reach areas. Those health facilities furthermore lack medication, equipment, and qualified personnel, and the services provided are unaffordable for these women.<sup>116</sup> The lack of proper health facilities in reach is problematic especially for urgent matters such as childbirth complications<sup>117</sup> and suspected exposures to HIV. In the mining site of Bibatama, for example, women with delivery problems need to be transported on traditional stretchers as far as 62 kilometres to the hospital in Masisi centre.<sup>118</sup>

105. Free the Slaves, *The Congo Report*, June 2011, pp. 17-18; IPIS interview, Assodip, Goma, 11 October 2011.

106. Free the Slaves, *The Congo Report*, June 2011, pp. 17-18

107. *Ibid.*, p. 20; IPIS interview, Search for Common Ground, Goma, 4 October 2011.

108. IPIS interview, Search for Common Ground, Goma, 4 October 2011.

109. IPIS interview, Justice pour Tous, Bukavu, 8 October 2011.

110. *Ibid.*; IPIS interview, Assodip, 11 October 2011.

111. The concept of marriage in the DRC describes relationships of various types, ranging from legal marital union to the above described cohabitation. IPIS interview, CREDDHO, Goma, 6 October 2011.

112. IPIS interview, ALEFEM, Bukavu, 25 May 2010.

113. Free the Slaves, *The Congo Report*, June 2011, pp. 11 and 19.

114. IPIS interview, Search for Common Ground, Goma, 4 October 2011.

115. IPIS interview, Justice pour Tous, Bukavu, 8 October 2011.

116. Pact, *Contributing Towards a Post-Conflict Transition in the DRC: Addressing the Security of Artisanal Mining Women in Katanga and Orientale Provinces*, pp. 7 and 95; IPIS interview, Search for Common Ground, Goma, 4 October 2011; IPIS interview, UNCTC, Goma, 5 October 2011;

IPIS interview, Justice pour Tous, Bukavu, 8 October 2011.

117. IPIS interview, Assodip, Goma, 11 October 2011.

118. Field research by Assodip, Masisi, October 2011.

## ... 03.

# International and National Labour Standards

### a. International Labour Standards

The Congolese government has ratified the eight core International Labour Organization (ILO) Conventions.<sup>119</sup> The government renewed its commitment to observe these internationally recognised core labour standards during the first Ministerial Conference of the World Trade Organisation in Singapore in 1996 and the fourth Ministerial Conference in Doha in 2001. The DRC again reaffirmed its commitment during the universal adoption of the ILO Declaration on the Fundamental Principles and Rights at Work in 1998 and in the Declaration on Social Justice for a Fair Globalization in 2008.<sup>120</sup> Even in cases where the international labour standards are integrated into national law, enforcement of these laws continues to be problematic, however.

### Freedom of Association and the Right to Collective Bargaining

The right of workers to associate and organise themselves is not guaranteed in practice despite the 2006 Constitution that ensures the right to form and join trade unions without prior authorisation.<sup>121</sup> Of particular concern are the arrests and acts of violence against strikers. Three members of the Congolese Labour Confederation (CCT), for example, were abducted and mistreated by Congolese authorities in 2009, following their participation in a number of actions organised by their union. The case was presented to the ILO's Committee on Freedom

of Association, which stated that it particularly deplored the fact that the Congolese government did not provide any information or respond to the allegations.<sup>122</sup> A further cause of concern is the inactivity of trade union members. Most of the 400 trade unions in the private sector, especially in the natural resource sector, have ghost members and were created by employers only to mislead and discourage workers to genuinely organise themselves.<sup>123</sup>

### Discrimination and Equal Remuneration

Women are discriminated against men by the Congolese Labour Code, which requires them to have permission from their husbands to perform salaried work.<sup>124</sup> Moreover, the ILO equal remuneration convention (No. 100) requires that measures should be taken to promote and ensure equal remuneration for men and women for work of equal value. However the Labour Code defines equal remuneration for men and women as narrowly as salary. This contradicts with the ILO standards in which remuneration is defined not only in terms of salary, but also in terms of additional payments such as commissions and bonuses.<sup>125</sup> In practice, this means that women receive only 57% of the remuneration that men enjoy.<sup>126</sup> The Mining Code furthermore states that any Congolese of age is eligible to work in artisanal mining.<sup>127</sup> Yet, as has been shown above, women working in mining sites are frequently denied to participate in core activities. The informal character of mining in Eastern DRC is often an impediment to safeguarding the existing principles.

### Child Labour

In the DRC, children are allowed to work from the age of 15 if the employer obtains the consent of the parents or guardians. Work in mining

119. ILO, Conventions and Recommendations: <http://www.ilo.org/global/standards/introduction-to-international-labor-standards/conventions-and-recommendations/lang--en/index.htm>.

120. ITUC, Internationally Recognised Core Labour Standards in the Democratic Republic of Congo. Report for the WTO General Council review of the trade policies of the Democratic Republic of Congo (Geneva, 24 and 26 November 2010), p. 4.

121. ITUC, ITUC annual survey. Congo, Democratic Republic of 2011, p. 25.

122. ILO, 357th Report of the Committee on Freedom of Association, June 2010, p. 255.

123. *Ibid.*

124. ITUC, Internationally Recognised Core Labour Standards in the Democratic Republic of Congo. Report for the WTO General Council review of the trade policies of the Democratic Republic of Congo (Geneva, 24 and 26 November 2010), p. 4.

125. ILO, 2011 Report of the Committee of Experts on the Application of Conventions and Recommendations, 100th session, 2011, p. 224.

126. ITUC, Internationally Recognised Core Labour Standards in the Democratic Republic of Congo. Report for the WTO General Council review of the trade policies of the Democratic Republic of Congo (Geneva, 24 and 26 November 2010), p. 4.

127. Article 26 of the Mining Code, Law number 007/2002.



Trade unions demonstrating at the World March of Women, Bukavu 2010

sites, however, is listed by the government as hazardous work and prohibited for anyone under 18.<sup>128</sup> But, since the authorities lack financial and human resources to undertake inspections and enforce the law, many children perform the worst forms of child labour in mines, where they comprise on average about a third of the mines workforce.<sup>129</sup> While the Congolese government incorporated a section into the penal code on the worst forms of child exploitation, prescribing a punishment of up to 20 years imprisonment for trafficking or sexually exploiting children or any other person in return of a remuneration, no information on its actual application has been made public.<sup>130</sup>

### Forced Labour

Forced labour is illegal under a wide range of Congolese laws; from the laws on sexual violence to the constitutional provisions on involuntary recruitment in armed forces.<sup>131</sup> The Congolese

Labour Code also states that forced or obligatory work is prohibited.<sup>132</sup> Nevertheless, extortion and illegal taxation and sexual exploitation of women and girls in mining sites are widespread. Both individuals and armed groups force people to work in mines and agriculture. In the extractive industry, internal human trafficking for the purpose of forced prostitution and forced labour is especially high. As the government does not have the capacity or the willingness to take measures to prevent and prosecute human trafficking, these practices continue unabated.<sup>133</sup> In 2011, the ILO's Committee of Experts expressed its concern over these practices, which violate the forced labour convention, and urged the government to take the necessary counter-measures and to sanction its perpetrators. The Committee also criticised the limited scope of the existing sanctions, which only consist of six months imprisonment and a possible additional fine, to condemn forced or compulsory labour.<sup>134</sup>

128. Pact, PROMINES Study, Artisanal Mining in the Democratic Republic of Congo, June 2010, p. 95.

129. ITUC, Internationally Recognised Core Labour Standards in the Democratic Republic of Congo. Report for the WTO General Council review of the trade policies of the Democratic Republic of Congo (Geneva, 24 and 26 November 2010), p. 6.

130. ILO, 2011 Report of the Committee of Experts on the Application of Conventions and Recommendations, 100th session, 2011, p.289.

131. ITUC, Report for the WTO General Council Review of the Trade Policies of the Democratic Republic of Congo, Geneva 24 and 26 November 2010, p. 8.

132. 'Code du Travail,' Law number 015/2002, 16 October 2002, p. 7.

133. ITUC, Internationally Recognised Core Labour Standards in the Democratic Republic of Congo. Report for the WTO General Council review of the trade policies of the Democratic Republic of Congo (Geneva, 24 and 26 November 2010), p. 8.

134. ILO, 2011 Report of the Committee of Experts on the Application of Conventions and Recommendations, 100th session, report III (part 1 A), 2011.

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# 03.

## SEXUAL AND GENDER- BASED VIOLENCE IN EASTERN DRC

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### **01. Trends and Patterns**

### **02. National Responses**

- a. The Judicial System
- b. Other Measures

### **03. International Responses**

- a. Civilian Protection
- b. Fight Against Impunity

## ... 01.

# Trends and Patterns

Sexual and gender-based violence has become widespread in the Congo during the two successive wars in the 1990s.<sup>135</sup> Sexual violence continues throughout Congo today, but is particularly endemic in the east.<sup>136</sup> The military operations since early 2009 have led to a further dramatic increase in gender-based assaults in conflict areas.<sup>137</sup> Since the conflicting groups attack and rape civilians during military operations, waging a proxy war more often than battling each other directly, some have argued that sexual violence is being used as a weapon of war in Eastern DRC.<sup>138</sup> Even though military offensives have slowed down this year, extensive sexual violence persists due to the region's continued high insecurity.<sup>139</sup>

Sexual and gender-based violence in Eastern DRC is also linked to the exploitation of natural resources. In illegally controlling mining activities, military elements and rebel groups commit serious abuses against the population, including murder and rape.<sup>140</sup> The revenues from these mining activities have also incentivised different armed groups and military units to create a volatile environment, through human rights abuses, that ensures the continuation of the status quo.

While sexual violence in Eastern DRC is

pervasive, precise numbers of its extent are unfortunately rare. Existing data tends to be under-reported because of the insecurity and the remoteness of many places, the inadequate health care and weak justice systems, and the sensitivity of the issue and the associated stigma.<sup>141</sup> Nevertheless, some estimates have been put forward. The United Nations Population Fund (UNFPA) concluded that more than 8000 cases of sexual violence took place yearly in 2009 and 2010 in Eastern DRC,<sup>142</sup> counting 5485 cases in North Kivu and 2928 in South Kivu last year.<sup>143</sup> Numbers for this year are in the same range for both provinces, with 1339 cases in South Kivu the first semester alone.<sup>144</sup>

Wartime sexual violence in Eastern DRC is characterised by its worst forms. Sexual assaults include gang rape,<sup>145</sup> which represents the majority of all cases, rape in public or in presence of family members, rape with instruments, genital mutilation, and forced incest.<sup>146</sup> Gang rape is predominantly perpetrated by men wearing military uniforms.<sup>147</sup> The majority of perpetrators are armed men or men in some kind of military uniform—this includes armed men identified or unidentified with a specific armed group or the military.<sup>148</sup> According to UNFPA, last year, 44% of perpetrators were civilians and 49% armed men in North Kivu. In South Kivu, civilians were slightly less with 33% of all actors.<sup>149</sup> The Harvard Humanitarian Initiative concluded similarly that 38% of sexual assaults were committed by civilians

135. Harvard Humanitarian Initiative, *Characterizing Sexual Violence in the Democratic Republic of Congo*, August 2009, p. 22; DRC 1993-2003, UN Mapping Report, August 2010, par. 531; Human Rights Watch, *Soldiers who Rape, Commanders who Condone*, July 2009, p. 15.

136. In 2010, there were more than 2500 incidents of sexual violence in both North and South Kivu only, while in most other provinces their number was below 1000: statistics on sexual violence incidents in the DRC in 2010, UNFPA; Human Rights Watch, *Soldiers who Rape, Commanders who Condone*, July 2009, p. 15.

137. Human Rights Watch, *You Will Be Punished*, December 2009, p. 143; Harvard Humanitarian Initiative, *Now the World is Without Me*, April 2010, p. 33.

138. Harvard Humanitarian Initiative, *Now the World is Without Me*, April 2010, pp. 37-38; Human Rights Watch, *You Will Be Punished*, December 2009, pp. 53 and 79. No systematic research exists that shows that sexual violence is used as a weapon of war—as a deliberate, systematic military strategy—in Eastern DRC. However, most agree that sexual violence has strategic uses, such as retaliation, for armed groups.

139. IPIS interview, UNFPA, Goma, 7 October 2011.

140. Global Witness, *Congo's Minerals Trade in the Balance*, May 2011, pp. 8-9.

141. Harvard Humanitarian Initiative, *Characterizing Sexual Violence in the Democratic Republic of Congo*, August 2009, p. 7; NYT, *Congo study sets estimate for rapes much higher*, 11 May 2011.

142. More than 8,000 women raped last year by fighters in Eastern DRC, UN News Center, 9 February 2011.

143. Statistics on sexual violence incidents in North Kivu in 2010, UNFPA.

144. *Ibid.*; IPIS interview, UNFPA, Goma, 7 October 2011.

145. Gang rape is defined as by more than one perpetrator.

146. Harvard Humanitarian Initiative, *Characterizing Sexual Violence in the Democratic Republic of Congo*, August 2009, p. 6; Harvard Humanitarian Initiative, *Now the World is Without Me*, April 2010, pp. 12 and 16; International Alert, *War is Not Yet Over*, November 2010, p. 12.

147. Harvard Humanitarian Initiative, *Characterizing Sexual Violence in the Democratic Republic of Congo*, August 2009, p. 16.

148. *Ibid.*; International Alert, *War is Not Yet Over*, November 2010, p. 22; Harvard Humanitarian Initiative, *Now the World is Without Me*, April 2010, pp. 12 and 14; IPIS interview, Centre Olame, Bukavu, 10 October 2011.

149. Statistics on sexual violence incidents in North Kivu in 2010, UNFPA.

and 46% by armed combatants in South Kivu in 2008.<sup>150</sup> It is widely believed that ex-combatants make up most of these civilians who have reintegrated into civilian life without proper rehabilitation measures and who thus continue to have a wartime mentality and conduct.<sup>151</sup>

Sexual violence is often accompanied by other acts of violence. Gang rape and rape in public are frequently committed as whole villages are attacked and looted.<sup>152</sup> Most sexual assaults happen after dusk in the victim's own home, followed by attacks in the forest and fields.<sup>153</sup> Women and girls of all ages,<sup>154</sup> civil status, and ethnic groups are victims of sexual violence.<sup>155</sup> Violent sexual assaults have obvious health and psychological consequences and often result in stigmatisation and rejection of the victims by their families and communities.

## ... 02.

# National Responses

### a. The Judicial System

The near-total impunity for perpetrators of sexual assaults and other human rights violations in

the country is a major reason for the persistent and endemic nature of gender-based violence in Eastern DRC.<sup>157</sup> The Congolese justice system is dysfunctional, under-sourced and -staffed, and highly politicised due to frequent interferences by political and military authorities.<sup>158</sup> Different forms of sexual violence are crimes against humanity under the Congolese Military Penal Code<sup>159</sup> as well as under international law.<sup>160</sup> Military courts and tribunals have the sole authority over international crimes, including crimes against humanity and war crimes committed by members of armed forces, the police, and civilians.<sup>161</sup>

The lack of independence, however, has rendered most cases to go uninvestigated, unprosecuted, or unconvicted. Prison escapes and extractions are also not uncommon.<sup>162</sup> Officers protect their soldiers from justice by failing to comply with arrest warrants,<sup>163</sup> interfering during investigations and trials, and by assisting in prison escapes.<sup>164</sup> As a result of extremely low salaries,<sup>165</sup> courts frequently release alleged rapists on bail, often under suspicious circumstances and in violation of penal procedures.<sup>166</sup>

150. Harvard Humanitarian Initiative, *Now the World is Without Me*, April 2010, p. 19.

151. IPIS interview, UNFPA, Goma, 7 October 2011; UN Human Rights Council, *Mission to the DRC*, 28 February 2008, par. 15; International Alert, *War is Not Yet Over*, November 2010, p. 21; Human Rights Watch, *Soldiers who Rape, Commanders who Condone*, July 2009, p. 15.

152. Harvard Humanitarian Initiative, *Characterizing Sexual Violence in the Democratic Republic of Congo*, August 2009, p. 16.

153. Harvard Humanitarian Initiative, *Now the World is Without Me*, April 2010, pp. 12 and 35.

154. E.g. statistics for North Kivu in 2010: 5% of victims were younger than 10 years, 30% between 10 and 17 years, 22% between 18 and 24 years, 37% between 25 and 49, and 5% were older than 50 years (and 1% was not determined). 1.5% of all counted victims were male. Statistics on sexual violence incidents in North Kivu in 2010, UNFPA. It has to be noted, however, that it is widely believed that sexual violence against men, including rape, is under-reported. See IRIN, *Rape as a "weapon of war" against men*, 13 October 2011.

155. Harvard Humanitarian Initiative, *Characterizing Sexual Violence in the Democratic Republic of Congo*, August 2009, p. 6; Harvard Humanitarian Initiative, *Now the World is Without Me*, April 2010, pp. 16 and 35.

156. Harvard Humanitarian Initiative, *Characterizing Sexual Violence in the Democratic Republic of Congo*, August 2009, pp. 16-17.

157. Harvard Humanitarian Initiative, *Characterizing Sexual Violence in the Democratic Republic of Congo*, August 2009, p. 23; DRC 1993-2003, UN Mapping Report, August 2010, par. 79, 651, 929 and 974.

158. DRC 1993-2003, UN Mapping Report, August 2010, par. 929; Amnesty International, *The Time for Justice is Now*, August 2011; IPIS interview, Centre Olame, Bukavu, 10 October 2011.

159. The Military Justice Code of 1972 was reformed in 2002, resulting in the Military Penal Code, Law number 024/2002, November 18, 2002. Art. 169, point 7 mentions "rape, sexual slavery, forced prostitution, forced pregnancy, forced sterilisation and any other form of sexual violence of comparable gravity".

160. DRC 1993-2003, UN Mapping Report, August 2010, par. 537. Crimes of sexual violence in an armed conflict, such as in Eastern DRC, constitute war crimes and when committed systematically and in widespread fashion, they are also crimes against humanity. The DRC is bound by international law as it ratified the Rome Statute of the International Criminal Court in April 2002.

161. DRC 1993-2003, UN Mapping Report, August 2010, par. 829; Amnesty International, *The Time for Justice is Now*, August 2011. This exclusive jurisdiction might be transferred to the civilian criminal courts if the draft bill on implementing the International Criminal Court Statute, which is under consideration, gets adopted. Crimes committed after 2002 would be treated by the civilian criminal justice system. Amnesty International, *The Time for Justice is Now*, August 2011.

162. DRC 1993-2003, UN Mapping Report, August 2010, par. 979; Amnesty International, *The Time for Justice is Now*, August 2011; IPIS interview, Centre Olame, Bukavu, 10 October 2011.

163. Military regulation stipulates that soldiers stationed in military operations may only be arrested with the prior consent of their commanding officer. UN Human Rights Council, *Mission to the DRC*, 28 February 2008, par. 76.

164. Human Rights Watch, *Soldiers who Rape, Commanders who Condone*, July 2009, p. 49; Amnesty International, *The Time for Justice is Now*, August 2011; UN Human Rights Council, *Mission to the DRC*, 28 February 2008, par. 76.

165. A judge may earn as little as 20-30 USD a month. UN Human Rights Council, *Mission to the DRC*, 28 February 2008, par. 73.

166. UN Human Rights Council, *Mission to the DRC*, 28 February 2008, par. 74.

Furthermore, almost all military prosecutions of sexual violence have been of lower-ranking soldiers.<sup>167</sup> When mid-level or senior-level officers do get prosecuted, sentences are rarely carried out.<sup>168</sup> The legal requirement<sup>169</sup> that the highest-ranking judge<sup>170</sup> has to be of equal or greater rank than the accused is one factor contributing to the low number of trials against high-ranking officers.<sup>171</sup> Also, in the military system, the victim has no legal means of obliging the pursuit of a case.<sup>172</sup>

In order to address sexual violence more systematically, the government adopted a new law on sexual violence<sup>173</sup> in 2006. It provides an important legal framework to prosecute acts of sexual violence. For the first time, sexual mutilation, the use of instruments, and sexual slavery are specifically criminalised. Rape punishment is between five and twenty years in prison. When a public official or a group commits rape, when a weapon is used, or the victims are kept in captivity, the years of penalty get doubled.<sup>174</sup> The law also defines sexual relations with underage children as sexual violence.<sup>175</sup> However, the law also has some deficits. It is a mere list of sanctions and definitions without concrete measures of application, making a judgment based on the law difficult.<sup>176</sup> Law enforcement and justice authorities have been unable, but in many instances also unwilling, to implement the law.<sup>177</sup> Overall, the adoption of the law has not led to any significant improvements in bringing soldiers to justice for sexual crimes.<sup>178</sup>

The protection of victims is in theory ensured under the criminal procedure law,<sup>179</sup> which

specifies, among others, that judicial proceedings cannot be longer than three months and requires that victims and witnesses are protected during that time. The norm of three months has shown to be purely inspirational,<sup>180</sup> however, and the only protection programmes that exist so far are provided by the International Criminal Court and the UN Joint Human Rights Office and are limited in scope. Fear and risk of reprisal are main reasons for victims and their families to not seek justice, especially in remote areas of Eastern DRC.<sup>181</sup> Instead of using legal means, victims and their families often resort to informal settlements. Such settlements may result in compensation or in an agreement that the victim marries the perpetrator, often against her will.<sup>182</sup> The duration of proceedings, the long distance to police stations or courts, the financial costs, and the low expectations of winning a case or of receiving the compensation are additional challenges for women to report crimes of sexual violence.<sup>183</sup>

Given the problematic state of the military justice system, the government provides for the option to establish Military Operational Courts in the context of military operations.<sup>184</sup> Such a Military Operational Court was established in North Kivu in late 2008 to prosecute crimes committed by soldiers. A small number of low-ranking soldiers and officers have been prosecuted, but many of those charged escaped detention and were tried in absentia, undermining the tribunal's impact.<sup>185</sup> President Kabila's soon-followed announcement of a "zero tolerance" policy for human rights violations committed by soldiers and tolerated by com-

167. Human Rights Watch, *Soldiers who Rape, Commanders who Condone*, July 2009, p. 6; Amnesty International, *The Time for Justice is Now*, August 2011.

168. Human Rights Watch, *Soldiers who Rape, Commanders who Condone*, July 2009, pp. 115 and 130-131.

169. As stipulated by the Military Justice Code of 1972.

170. The highest-ranking judge has the rank of a Brigade General.

171. Amnesty International, *The Time for Justice is Now*, August 2011.

172. In the civil justice system, the option of court orders obliging a case to be pursued exists. AI, *The Time for Justice is Now*, August 2011.

173. Law number 06/018 of 20 July 2006.

174. Human Rights Watch, *Soldiers who Rape, Commanders who Condone*, July 2009, p. 19.

175. International Alert, *War is Not Yet Over*, November 2010, pp. 9 and 12; Human Rights Watch, *Soldiers who Rape, Commanders who Condone*, July 2009, p. 19.

176. IPIS interview, Centre Olame, Bukavu, 8 October 2011.

177. UN Human Rights Council, *Mission to the DRC*, 28 February 2008, par. 66.

178. Human Rights Watch, *Soldiers who Rape, Commanders who Condone*, July 2009, p. 6; International Alert, *War is Not Yet Over*, November 2010, pp. 8 and 9.

179. Law number 06/019, July 20 2006.

180. UN Human Rights Council, *Mission to the DRC*, 28 February 2008, par. 69.

181. Amnesty International, *The Time for Justice is Now*, August 2011.

182. *Ibid.*; UN Human Rights Council, *Mission to the DRC*, 28 February 2008, par. 72.

183. Amnesty International, *The Time for Justice is Now*, August 2011; IPIS interview, Centre GESOM, Goma, 5 October 2011; UN Human Rights Council, *Mission to the DRC*, 28 February 2008, par. 87.

184. Amnesty International, *The Time for Justice is Now*, August 2011.

manders in the summer of 2009 has not resulted in a considerable improvement either, due to the lack of a clear commitment by the government.<sup>186</sup>

In order to improve access to the justice system, mobile courts that focus on gender crimes were launched in October 2009 and are being set up in small cities and rural areas in eastern Congo.<sup>187</sup> The courts conduct military and civilian trials,<sup>188</sup> depending on the crimes committed. So far, mobile courts have been the most successful instrument to treat crimes under international law in the DRC.<sup>189</sup> The mechanism has been widely praised for its landmark sentence of a commanding officer for sexual violence in South Kivu earlier this year. He received 20 years in prison for ordering his troops to attack the town of Fizi and to beat and rape civilians on New Year's Day.<sup>190</sup> At least 50 women were raped during the attack.

#### b. Other Measures

While impunity continues to be the rule, and justice an exception, despite all efforts, the government has taken few other measures to combat sexual violence in the country. The President's wife, Olive Lembe Kabila, launched a country-wide campaign in 2007 to raise awareness of the issue. The high level involvement raised the profile of sexual violence to a certain degree.<sup>191</sup> More importantly, the Ministry of Gender, Family Affairs and Children, the main government department dealing with sexual violence, adopted a national strategy to fight sexual violence in 2009.<sup>192</sup> The strategy is supported by the United Nations

and receives bilateral and multilateral funds. It is implemented in the East under the UN framework of the Comprehensive Strategy on Combating Sexual Violence in DRC.<sup>193</sup> The strategy provides for a common framework for action and coordination of all stakeholders involved in the fight against violence against women and girls in the country. It consists of four components: Combating impunity; prevention and protection; security sector reform; and multi-sectoral assistance for survivors of sexual violence. The management of data and information related to gender-based violence is also part of it. It has been running in South Kivu and Ituri since 2010 and is set to start in North Kivu in October of this year.<sup>194</sup>

## ... 03. International Responses

#### a. Civilian Protection

The United Nations Security Council Resolution (UNSC) 1856 of December 2008<sup>195</sup> made the protection of civilians in the two Kivus the highest priority of the peacekeeping mission MONUC.<sup>196</sup> In various resolutions, the UNSC requested furthermore that MONUC pays particular attention to sexual violence.<sup>197</sup> Despite these strong mandates and resolutions, however, MONUC has often been criticised for failing to adequately protect civilians. MONUSCO<sup>198</sup> has been lacking

185. Human Rights Watch, *You Will Be Punished*, December 2009, pp. 130-131, US State Department, 2010 Human Rights Report: Democratic Republic of the Congo, 8 April 2011; Amnesty International, *The Time for Justice is Now*, August 2011.

186. Human Rights Watch, *You Will Be Punished*, December 2009, p. 132; Amnesty International, *The Time for Justice is Now*, August 2011.

187. Radio Netherlands Worldwide, *Fizi Mobile Court: Rape Verdicts*, 2 March 2011.

188. Open Society Justice Initiative, *Fact sheet: DRC Mobile Gender Courts*, 19 July 2011.

189. Amnesty International, *The Time for Justice is Now*, August 2011.

190. Three other officers also received 20 years imprisonment, five were sentenced to between 10 and 15 years, while one officer was acquitted and a minor was referred to a juvenile court. See *Enough, Court sentences Congo commander for New Year's attack*, 24 February 2011; Amnesty International, *The Time for Justice is Now*, August 2011.

191. Human Rights Watch, *Soldiers who Rape, Commanders who Condone*, July 2009, pp. 5-6.

192. *Stratégie nationale de lutte contre les violences basées sur le genre*: <http://monusco.unmissions.org/LinkClick.aspx?fileticket=vTOe7bc8AME%3D&tabid=4078&mid=4031>

193. <http://www.uwan.info/ComprehensiveExecStrategyDRC.pdf> The implementation of the strategy in the East is funded by donors through STAREC, the 'Stabilisation et Reconstruction des zones sortant des conflits armés' established by President Kabila in 2009. <http://www.amanileo.net/images/starec/ordancestarec.pdf>

194. IPI interview, UNFPA, Goma, 7 October 2011; MONUSCO press release, 25 November 2009: <http://monusco.unmissions.org/Portals/MONUC-French/Document/Press%20Release/2511Communiqu%20Conjoint%20RDC-ONU%20Lancement%20de%20la%20Strategie%20Nationale.pdf>

195. [http://www.un.org/Security\\_c/coef/res1856\(2008\).pdf](http://www.un.org/Security_c/coef/res1856(2008).pdf)

196. The United Nations Security Council established a peacekeeping mission with a strong mandate to protect civilians in 2000. MONUC stands for 'Mission de l'Organisation des Nations Unies en République Démocratique du Congo'. IPI, *Renewing MONUSCO's Mandate: What Role Beyond the Elections?*, May 2011, p. 3; Human Rights Watch, *You Will Be Punished*, December 2009, p. 134.

197. Human Rights Watch, *You Will Be Punished*, December 2009, p. 142.

198. MONUC was renamed MONUSCO on 1 July 2010 with the "S" standing for "stabilisation."

logistical resources and rapid response and mobility capabilities<sup>199</sup> and has failed to sufficiently train its troops.<sup>200</sup> The mission's difficulty to fulfil its protection mandate became apparent again during the Congolese military operations—Kimia II—in 2009, which were rife with human rights violations, and which MONUSCO directly supported.<sup>201</sup> The mass rape in the summer of 2010 in a part of North Kivu where more than 380 civilians were raped<sup>202</sup> is just one of a series of other recent reminders of the inadequacy of MONUSCO to effectively protect civilians. The mission, however, is a crucial instance in Eastern DRC nevertheless. It provides important on-the-ground information essential for efforts to fight impunity and it saves lives by allowing humanitarian workers to operate in dangerous areas.<sup>203</sup>

### b. Fight Against Impunity

Besides its concern with civilian protection, the UNSC has also been resolute on measures to fight impunity. In Resolution 1888 of September 2009, the UNSC urges all conflict parties to investigate reports of sexual violence committed by military personnel and to bring its perpetrators to justice.<sup>204</sup> In December 2010, the UNSC adopted Resolution 1960<sup>205</sup> similar to Resolution 1820 of June 2008,<sup>206</sup> which both condemn the use of rape and other forms of sexual violence during wartime and announce targeted measures and instruments to fight those forms of violence. The resolutions build on Resolution 1325,<sup>207</sup> which pushed for the inclusion of women and gender perspectives into peace-keeping troops and peace negotiations.<sup>208</sup>

The UN Special Rapporteur on Sexual Violence in Conflict, Margot Wallström, has also been

vocal about and criticising Congo's deep-rooted impunity and has emphasised the need to bring perpetrators to justice. She points to the fact that rape is not cultural, but criminal and should be treated as such.<sup>209</sup> She has also called for security sector reform of the ill-disciplined Congolese army and stressed the urgency of implementing effective prevention and protection measures.<sup>210</sup> Her advocacy for these issues in the Congo has helped to raise international awareness and it is important that such high-level attention is maintained to achieve real impacts on the ground.

Whereas the national justice system has largely failed to bring perpetrators of sexual violence to justice, there has been some traction at the international level. The government referred the situation of the country since 2002 to the International Criminal Court (ICC) in April 2004. The court started its investigation two months later.<sup>211</sup> Four of the five arrest warrants that the court has issued so far are against rebel leaders from Ituri in Province Orientale, north of North Kivu, for war crimes and crimes against humanity committed in 2002 and 2003. Germain Katanga and Mathieu Ngudjolo, both on trial, are accused of sexual slavery and rape, among other allegations. The fifth arrest warrant is out for the executive secretary of the FDLR, Callixte Mbarushimana, who is in pre-trial detention, for war crimes and crimes against humanity, including rape, committed by the FDLR in North and South Kivu in 2009.<sup>212</sup> While these international prosecutions support justice in the Congo, bringing a larger number of perpetrators, of low and high rank, to justice at the national level is essential to bring a definite end to impunity in the country.

199. Human Rights Watch, *You Will Be Punished*, December 2009, pp. 134, 137, and 144; IPI, *Renewing MONUSCO's Mandate: What Role Beyond the Elections?*, May 2011, p. 4.

200. Final Report of the Fact-Finding Missions of the UN Joint HR Office into the Mass Rapes and other Human Rights Violations Committed by a Coalition of Armed Groups along the Kibua-Mpofi Axis in Walkale Territory, North Kivu, From 30 July to 2 August 2010, July 2011, pp. 10-11.

201. Human Rights Watch, *You Will Be Punished*, December 2009, pp. 134, 137, and 144.

202. MONUSCO, *Final Report of the Fact-Finding Missions* (cit.), July 2011, p. 13-14.

203. International Peace Institute, *Renewing MONUSCO's Mandate: What Role Beyond the Elections?*, May 2011, p. 4.

204. Human Rights Watch, *You Will Be Punished*, December 2009, p. 137.

205. <http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/WPS%20SRES%201960.pdf>

206. <http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/CAC%20S%20RES%201820.pdf>

207. [http://www.un.org/events/res\\_1325e.pdf](http://www.un.org/events/res_1325e.pdf)

208. Human Rights Watch, *Soldiers who Rape, Commanders who Condone*, July 2009, p. 38.

209. The Interdependent, *As reports of rapes in Congo rise, Margot Wallstrom talks tactics*, 13 September 2010.

210. AFP, *150 raped in DR Congo rampage*: UN, 23 June 2011; UN News Center, *UN envoy voice outrage after mass rape in eastern DR Congo*, 24 June 2011.

211. Amnesty International, *The Time for Justice is Now*, August 2011. According to the Rome Statute of the ICC, "rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilisation, or any other form of sexual violence of comparable gravity" can be war crimes or crimes against humanity. Articles 7 and 8.

212. International Criminal Court homepage: <http://www.icc-cpi.int/Menus/ICC/Situations+and+Cases/Situations/Situation+ICC+0104/> (last accessed on 13 September 2011).

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# 04.

## POLICY RECOMMENDATIONS

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### **01. Congolese government**

### **02. International community**

- a. United Nations
- b. International Labour Organisation
- c. Other governments

### **03. Multinational enterprises**

### **04. Local trade unions**

### **05. Local and international women's organisations**

## 01. Congolese government

- Give full effect to the CEDAW (Convention on the Elimination of All Forms of Discrimination against Women) and the Beijing Action Plan.
- Give full effect to ILO Convention No. 100 (equal remuneration) and No. 111 (equal employment and occupation) and amend the Labour Code accordingly, in particular by establishing the principle of equal remuneration for men and women for work of equal value and by abolishing the requirement for women to get their husband's authorisation to become employed.
- Recognise gender equality as a prerequisite to peace, democracy, and development.
- Put in place mechanisms, programmes, and policies to ensure women are fully involved in the formulation of public policies.
- Improve school enrolment of girls and female literacy rates and change societal norms on women through education.
- End impunity: implement the 2006 law on sexual violence and take all measures to fight against corruption in and strengthen the capacity of the justice system.
- Improve security and strengthen security sector reform: train security forces in human rights, gender issues, humanitarian law, and in their duties to protect civilians, increase their loyalty to the state, etc.
- Improve security in mining areas: complete the demilitarisation of mining sites and train and deploy sufficient numbers of mining police.
- Formalise the artisanal mining sector: help in the formation of cooperatives and encourage the formation of women or family-based cooperatives, designate more artisanal mining zones and strengthen the capacity of SAESSCAM, the government's artisanal and small-scale mining technical assistance and training service, and continue to improve transparency of the sector.
- Enforce applicable laws and conduct inspections: enforce the labour law, including trade union rights, prohibition of gender discrimination, child labour, and forced labour.
- Promote decent work policies and standards in the region with a special focus on the mining sector, if necessary with the support of the ILO.
- Improve the livelihood in mining areas: implement development programmes, e.g. health centres, sanitation, water facilities, transportation infrastructure, schools, etc. and HIV/AIDS awareness campaigns. Support community-based organisations working to protect and assist victims of sexual and gender-based violence in mining areas and in the whole region. At the same time, promote alternative livelihoods.
- Develop actions and programmes aimed at eliminating the root causes of the conflict, including ethnic rivalries.

## 02. International community

### a. United Nations

- Continue efforts of population protection throughout Eastern DRC, including mining areas.
- Continue efforts of improving transparency and governance in the mining sector.
- Continue to monitor human rights violations and to improve the Congolese justice system.
- Increase the number of women in Monusco and other UN agencies.
- Increase knowledge of staff on women rights and gender equality.
- Continue with security sector reform, including training in human rights and humanitarian law.
- Continue to focus on sexual and gender-based violence, i.e. ensure the continuation in North and South Kivu of the UN Comprehensive Strategy on Combating Sexual Violence in DRC.

### b. International Labour Organisation

- Create a tripartite structure with the Congolese government, trade unions, and employers' organisations to address decent work deficits in Eastern DRC.
- Get actively involved in the promotion of decent work in the mining sector.
- Contribute as much as possible to the formal-

sation of the mining sector through legal advice and technical cooperation.

- Continue to supervise and examine Congo's implementation of the ratified core ILO conventions.
- Continue to encourage the Congolese government to implement and report on measures taken to give effect to the international labour conventions.

### c. Other governments

- Continue efforts at improving transparency and governance in the mining sector.
- Implement national legislation on due diligence measures according to the OECD Guidance and promote a clearer focus on the protection of mine workers' rights.
- Help ensure that multinationals respect core labour standards everywhere.
- Implement sanctions imposed by the UN Sanction Committee.
- Fund trade unions and non-governmental organisations working to protect and assist victims of sexual and gender-based violence in mining areas and in the whole region.
- Promote the dialogue with trade unions to discuss the situation in the DRC, in particular in the mining sector.

## 03. Multinational enterprises

- Strengthen efforts at improving transparency of the mining sector.
- Implement due diligence measures according to the OECD Guidance with the full involvement of the trade unions in the 5-step-framework.
- Ensure that the implementation of due diligence measures have a positive impact on human rights of mine workers.
- Promote and encourage the respect of core labour standards in the supply chain.
- Put the issue of violence against women on the agenda of social dialogue.

## 04. Local trade unions

- Create a woman's department that deals exclusively with women's issues.

- Support women logistically and legally in organising themselves into trade unions.
- Implement multidimensional programmes that focus on mining activities, e.g. safety conditions and fair and equal remuneration, and on social and health aspects of working and living in mining settlements.
- Provide a platform where women working in mining areas can share their experience and raise their concerns to the government.
- Provide training and workshops for women working in mining sites about their rights, including labour, constitutional, and human rights.
- Put the issue of violence against women on the agenda of a social dialogue and tripartite consultations between the Congolese government, trade unions, and employers' organisations.
- Raise awareness about the precarious conditions of women in mining areas (gender discrimination, sexual and gender-based violence, lack of healthcare services, etc.) nationally and internationally.

## 05. Local and international women's organisations

- Raise awareness among women working in mining areas about their rights, including labour, constitutional, and human rights.
- Provide education in literacy for women and empower them to claim their rights.
- Raise awareness about the precarious conditions of women in mining areas (gender discrimination, sexual and gender-based violence, lack of healthcare services, etc.) nationally and internationally.
- Improve the livelihood in mining areas through development programmes (e.g. health centres, sanitation, water facilities, transportation infrastructure, schools, etc. and HIV/AIDS awareness campaigns).

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# CONCLUSION

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Women and girls have suffered disproportionately from the conflicts and wars Eastern DRC has experienced over the last two decades. Sexual and gender-based violence has characterised the conflict and tendencies of sexual assault and abuse do not seem to go down. Members of illegal armed groups and army soldiers target civilians specifically during military operations, but also in the course of plundering and looting sprees on villages. Women and girls get sexually violated by individuals or groups of men in their own homes and at their workspace, often in front of their families or communities. Remote mining sites where law and order are often disrespected and poor work and social conditions prevail are a place where sexual and gender-based violence is especially widespread. Rape, forced prostitution, and forced marriage are an everyday reality for women and girls who try to make a living and care for their families by settling down in mining zones. Congo has laws aimed at preventing and protecting victims from such human rights abuses. The implementation of these laws, however, is failing as a result of unable and unwilling judicial institutions and authorities as well as corruption across government and military ranks.

The mining sector in Eastern DRC is mostly artisanal and often controlled by illegal armed groups and military units. Transparent and legal mining operations are an important link in cutting off rebels and corrupt soldiers from revenue streams generated by the exploitation and trade of minerals. While efforts at introducing traceability and governance into the mineral sector are advancing, they are intentionally and unintentionally hampered in different ways. It is imperative that all stakeholders take their respective and full responsibility. Multinational companies need to unequivocally implement due diligence measures and the Congolese and neighbouring governments need to formalise the artisanal mining sector and strengthen its authorities. In the meantime, the Congolese government and civil society groups need to, with the help of the United Nations and other international development agencies, provide the infrastructure and means for women in mining settlements to fully and unobstructedly operate under the same standards and with equal rights and remuneration as men and under safe and healthy work and living conditions.

Besides the importance of a clean and fair supply chain, law and justice are essential in bringing an end to the widespread human rights abuses and violence. Efforts have been undertaken by the Congolese government and the United Nations to strengthen the judicial system and reform the security sector, both important aspects in the fight against impunity; however, justice remains the exception and impunity the rule. It is thus necessary that the government with support of the United Nations continues to genuinely improve the workings of and access to the justice system and to professionalise and build capacity of the security forces to perform their duty to protect civilians.



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