



THE HIGH COST OF CONGOLESE GOLD:

POVERTY, ABUSE AND THE
COLLAPSE OF FAMILY AND
COMMUNITY STRUCTURES

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OVERVIEW

In its first ground breaking research report into artisanal gold mining in the east of the Democratic Republic of Congo (DRC), the Southern Africa Resource Watch (SARW) demonstrated how the industry had been transformed in recent years – moving from *Conflict Gold to Criminal Gold*. Based on unprecedented research in communities in the four main gold producing provinces (North-Kivu, South-Kivu, Maniema and Oriental), the report concluded that artisanal miners were now being preyed upon by a host of state bureaucrats, officials and security officers rather than warlords and militias – and that they were, in many cases, even worse off than before.

In this second report, SARW focusses on the lives of the miners and their families – highlighting how hundreds of thousands of people live in grinding poverty in the midst of the richest mineral resources in the DRC, as corrupt political, military, commercial and traditional elites syphon off most of the funds that should be fuelling socio-economic growth and development. With an estimated 30 million ounces of gold reserves in eastern DRC,¹ mining communities should be thriving but instead they are being torn apart by poverty, abuse, alcoholism and violence, which are destroying community and family structures, and leaving many people in a perpetual state of near-starvation.

In this environment, the most vulnerable – particularly women and girls – suffer daily violence, exploitation, neglect and abuse. From the hundreds of interviews with women, girls and boys that SARW researchers conducted during ten months in the field, some key facts emerged:

- Most women, including married mothers, have to struggle on their own for survival. Many are forced to fend for themselves from far too early in life and often end up married and pregnant long before reaching full maturity. Large numbers are victims of sexual, physical and mental abuse. Many are abandoned by their husbands or forced to accept bigamous relationships. Few girls complete their education.
- When boys reach the age of 10-12, they are usually expected to fend for themselves, especially as their parents are often too poor to continue caring for them. This forces them to start working on gold mining sites rather than staying in school. Many boys assist in the washing of gold ore, while stronger boys can find work as carriers or even as diggers. However, the majority just scrounge for gold dust in tailings, or in abandoned or inactive mining sites.
- The traditional and tribal governance and mediation mechanisms have broken down. Bwami² are now often merely another elite that preys on artisanal communities. Women and girls very rarely seek help or redress from them since they expect that they will not receive assistance

but merely become the victims of more corrupt demands – the same reason why they seldom seek redress through the formal judicial system. If women do seek non-family interventions, it is usually from the councils of wise men that still appear to function in most communities.

The SARW researchers also discovered devastating levels of tension and friction between gold mining husbands and their wives. The key disagreement concerns the question of whether gold mining is a valid livelihood. Most men are not interested in considering this question, preferring to enjoy the financial windfalls they receive on the rare occasions that they manage to find some gold. However, the overwhelming majority of women offer well-founded social, economic, health and security reasons why their husbands should abandon gold mining altogether.

And the situation is only likely to get worse. Many artisanal miners are hoping to obtain employment with one of the international mining companies that are now gearing up to start industrial gold production in eastern DRC. However, industrial mining requires less manpower. In addition, most artisanal miners lack marketable skills and exhibit very poor work habits. For these reasons, a very large percentage of the artisanal gold miners, who currently operate on territories that are licensed to international mining companies, are unlikely to gain permanent employment once industrial mining begins.

In fact, artisanal miners and their families will increasingly be viewed as illegal squatters. Companies that are planning (and are legally obliged) to pump hundreds of millions of dollars into their mining operations will insist on unencumbered access to the gold deposits on their concessions. Consequently, artisanal miners will be pushed towards areas with deposits of lesser and lesser value – until they are eventually made to leave the concession areas altogether. Currently, the inevitability of this outcome is as certain as the lack of any preparations to mitigate it.

RECOMMENDATIONS

The certainty that thousands of artisanal miners will soon be forced to find alternative livelihoods along with the fact that gold mining is not generating wealth or driving socio-economic development and that most families face a daily struggle for survival requires the Congolese government and the international community to pursue a new approach in relation to artisanal mining communities. Their support for the artisanal miners has so far been an abject failure and needs to change urgently to focus on more reliable, sustainable and pragmatic livelihood solutions.

While the transition away from artisanal mining activities is a multi-generational challenge, the Congolese government and the international community should begin immediately by:

- Providing a broad package of support to enable women to transform their subsistence farming activities into more commercially viable operations – through financial support for critical equipment such as tractors, silos and irrigation systems; assistance with establishing and running cooperatives; provision of tools and seedlings; and training in more effective farming and marketing techniques;
- Developing micro-credit systems that can help to free women from the dictates of husbands and traditional leaders, and provide them with the seed capital needed to transform their farming activities or businesses into operations that generate enough income to cover the basic needs of their families – from food to health to education;
- Identifying the most promising agricultural production opportunities, including new or under-exploited initiatives that add value to basic agricultural goods and could provide a more secure and sustainable living for mining families, by conducting a sub-regional value chain analysis to pinpoint the potential advantages and disadvantages of different parts of eastern Congo; and
- Ensuring that Congolese politicians are made aware of their responsibility to protect the most vulnerable members of society and of how they are failing in their duty – perhaps by requiring all local leaders or authorities to publish a detailed report of the situation in each locality.

HISTORY OF LAND RIGHTS IN EASTERN CONGO

The mining of minerals and precious stones has deep historic roots in Central Africa. As Bantu-speaking people spread from northwest Congo deep into the Congo Basin, they introduced metallurgy, in particular the skill to forge tools and weapons out of iron and copper. While limited evidence exists for underground mining of these metals, ample traces of alluvial mining, smelters and regional commerce remain in the southern and eastern parts of today's Congo, testifying to the value of these minerals in ancient times. However, no evidence suggests that there was large-scale gold mining during the period of Bantu migration or even that gold was regarded as a metal of intrinsic value at the time.

Historians believe that the skill to forge iron and copper tools triggered a beneficial chain reaction. The leap forward into the Iron Age helped to enhance agricultural methods and for the hunter-gatherers who dwelt in the forest it meant stronger weapons. Increased agricultural production enabled people to lead a more sedentary life, fostered the growth of communities and subsequently strengthened communal governance through chieftains and elders.

Building on these ethnic and economic roots, three major kingdoms and many smaller ones emerged within the boundaries of today's Congo before the European and Arab conquest began in the 16th century – the Luba and Lunda Empires along the Lualaba River in the region now known as Katanga, and the Kongo Empire on the western edges of today's state. Meanwhile, Bantu-speaking people also settled in the region of the Great Lakes, including what is now eastern DRC, Uganda, Rwanda and Burundi. While the Rwandan kingdom's influence extended deep into – what is now referred to as – the gold-rich Kibara Belt, situated mostly in eastern Congo, gold mining appears to have been of minimal importance.

The economy of these early Congolese kingdoms was based on superior agricultural production. Women worked the fields while men often engaged in arboriculture. This division of labour secured not only adequate supplies of vegetables, tubers, and fruits but also building materials and palm oil, as well as fibre for cloth and fabrics. Important new crop species arrived with the migrants and through the opening of new trading networks with other cultures.

The increasing success of agriculture and the consequent growth of settlements required a more active land management system. But this led to a series of critical questions – such as who would decide on land use priorities and under what conditions? And who actually owned the land that was now critical for

the survival of these communities and emerging kingdoms? To avoid conflicts over land use and boundaries, more durable management principles were required and two key principles subsequently emerged.³ Firstly, an individual should have land use rights granted to him by the political entity governing him so that he could support himself and his dependents. And secondly, an individual should enjoy continued usage rights, including the right to pass on the land and anything he had built or created to subsequent generations.

LAND USE VERSUS LAND OWNERSHIP

But land use rights did not equal land ownership, and certainly did not equate to the comprehensive proprietary rights that allegedly a Nigerian chief formulated with these words: “I conceive that land belongs to a vast family of which many are dead, few are living and countless members are still unborn.” Pre-colonial Congolese concepts of land ownership and usage rights are distinguished by three categories: collective, individual and common ownership.⁴ Obviously, defining the distinction between collective and common ownership presents challenges – particularly to Westerners. Common ownership appears to include all members of a polity and land usage rights that do not infringe on other users, such as hunting, fishing, collection of firewood and grazing rights. Collective ownership also extends to the entire community but the specific usage rights appear to be governed – depending on the customs of the community – by a trustee such as the chief or the king. Individual ownership extends to all usage and ownership rights except where the community has vested cultural, ancestral and religious interests.

A schematic overview of pre-colonial land property systems naturally omits many of the complexities of laws and customs, which can be found across the many Congolese societies that spun off from the principal large kingdoms. In the Kivus, for example, the Hamba practiced an elaborate land management system based on ancestral lineage and a chief with virtually absolute powers. Neighbouring groups, such as the Bemba and the Lega, governed in a more consensual fashion with a Kibuti as a village chief assisted by the oldest members of his clan. On the other hand, the Zande and Mangbetu occupied a region along the Ulélé River in today's Orientale Province, where the country's richest gold deposits would be found. They had developed an elaborate royal administrative system with strong communal participation that enabled them to create an impressive architecture and other cultural edifices – none of them showing the use of gold. In some of these societies, the village chief or elders had a right to impose a tribute or a tax. Traditionally, these contributions represented a percentage of the harvest or of a hunt. In exchange for this payment, the subjects expected the local leaders to exercise good governance, apply laws fairly and ensure the physical security of the community.

COLONIAL CONTROL OVER LAND

With the invasions of the first Arab and Belgian conquerors and colonialists, traditional Congolese land management and governance systems were severely disrupted. The new systems imposed by European administrators may well be one of the ‘most important means by which African economies were rendered structurally dependent on external economies and markets’.⁵ These changes also created new leaders or elevated old ones to positions of power that were, in most cases, not part of the indigenous fabric. In the first place, they were relieved of the responsibility for exercising good governance, applying laws fairly and ensuring the physical security of the community. The colonial changes also sowed confusion and created imbalances, particularly in relation to land use, which villagers and artisanal communities are still paying for to this day. Interviews that SARW researchers conducted with traditional leaders (Mwami) in several provinces have confirmed this legacy.

The principle of indirect rule through traditional authorities, which dominated the administration of British and Belgian colonies, led to the recognition of chiefs and rulers, even where they had not existed previously. But Elizabeth Colson (in her essay *The Colonial Period and Land Rights*)⁶ found that colonialists erroneously equated indigenous land use rights to Western property rights. Privileges were accrued to traditional leaders that were never part of the indigenous equilibrium, which had rested on usage privileges rather than amassing ownership stakes. The consequence was the creation of a Congolese elite, which assumed unprecedented powers, property and the right to sell or lease lands.

These new power arrangements and a clause formulated at the Berlin Conference of September 1876 called the ‘Principle of Effectivity’ greatly facilitated the wholesale transfer of vast tracks of former tribal forests and lands to new owners.⁷ The clause defined the specific evidence needed to determine that a territory had effectively been taken under the control of a colonial power. As a result of this clause, King Leopold II’s man in the Congo, American explorer Henri Morton Stanley, cajoled, extorted and forced hundreds of Central African tribal leaders and kings into signing treaties, which in the contemporaneous European legal interpretation meant their surrender of territories, people and resources. A Belgian decree of 1885 stipulated that ‘vacant’ land would be allocated to the Congo Free State. ‘Vacant’ was defined as all land that was not settled or under cultivation by Europeans – no matter whether a tract of land happened to be fallow in accordance with traditional farming methodologies.

SARW interview with Mwami Lukonge Likwabo Birunga IV, Chief of the Groupment Walowa Yungu of the Walikale Territory

Q: What are the origins of your people?

A: Our ancestors migrated from North Africa via Uganda, first to Kishali and finally here to Mwiki.

Q: When did your ancestors arrive here?

A: They came here well before the colonialists, probably during the 17th century.

Q: Since when has your clan ruled as Mwami?

A: We have ruled for a very long time, ever since our ancestors lived in Uganda.

Q: Would you describe the economic situation in your area?

A: We live from mining coltan, cassiterite, wolframite and gold. We also harvest timber, and we are farmers.

Q: Is it correct that as Mwami you have assumed traditional land ownership?

A: Yes I give the first right of land use to my people especially those who have no land to cultivate in order to enable them to meet the needs of their families. But I also give access to land to anybody who asks, regardless of whether they are man, woman, child or even a foreigner.

Q: Women also have a right to land?

A: Yes – I give without making any distinctions.

Q: Are you also extending rights to those who want to mine?

A: People who wish to mine land that is under my control have to pay two forms of taxes - one to the State, and one to the traditional leader. Customary law does not only apply to the mining industry, even farmers are required to pay a fee to me as their traditional authority.

Q: Is this fee paid in cash or in kind?

A: In our area the fee can be paid either way. In terms of mining, customary law requires 1/10th of the quantity of cassiterite, coltan and gold that has been produced.

Q: How are the taxes paid?

A: They payments are made every Saturday. For example, the artisanal miners work from Monday to Friday for themselves, but the entire production from Saturday is for the Mwami.

Q: How many artisanal miners are working in your area?

A: Their number varies but usually between 2000–3000.

Q: How much is the total amount received?

A: It is difficult to obtain accurate estimates of the amounts paid.

The Free State was divided into two administrative zones. The first was a free zone that theoretically was open to any European entrepreneur wishing to acquire natural resource concessions. The second zone, which included the interior of the Congo where rubber and ivory were highly concentrated, was declared *Domaine Privé* or the private economic preserve of King Leopold. These transactions conferred most indigenously held land to colonial settlers or entrepreneurs, with many local chiefs and Mwami as junior partners in the expropriation scheme. Once the Congo's minerals and precious stones were discovered around the turn of the century, the Belgian King's – and later the Belgian Colonial Administration's – voracious appetite for this natural wealth expanded this system further, by transforming local traditional leaders into the chief procurers of labour – for a fee.

POWERS OF THE MODERN MWAMI

The system was institutionalised first in Katanga and later throughout the Belgian Congo with decrees that established the system of Chefferies as the local administrative unit. Usually, the heads of the Chefferies would be picked from among the newly minted chiefs, invariably those who did not cause trouble for the colonial administrators. SARW researchers interviewed a number of Mwami from both Oriental and North Kivu provinces, who all date the accession of their families to the post of Chefferie prior to the 1920s. From that time on, they considered themselves to have power over their subjects. Currently, they occupy a dual position: one that is derived from an often vague traditional and hereditary title to royalty, and the other that is inferred on them by their political appointment as the chief administrative officer of the Chefferie. Regardless of whether either of these positions actually bestows the power to decide on matters related to land and commerce, they now exercise complete control over both issues. They approve the right to use land for farming, for building a house or a shop, for mining, or for operating a stall in the public market. Following ancient traditions they also impose taxes based on very questionable legal foundations.

The significant expansion of their power has drastically altered communal life and upset its economic equilibrium. It has created new winners – such as Mwami Janvier Kasidikara Kudakuma II, who is Chef of the Chefferies of Buito and Rutshuru in North Kivu and who proudly wears a golden medallion given to him by the Belgian King in 1955 – and many new losers. In an interview with SARW, Mwami Kudakuma claims that his grandfather signed a friendship pact with King Leopold II, which was renewed over time and which he considers to still be in force. Among other privileges the pact gave the Belgian colonialists the right to exploit the area's natural resources, recruit villagers into the labour force and operate large agricultural enterprises. In exchange, his grandfather and subsequently Mwami Kudakuma were given compensation in the form of a car, a house and some money, while his subjects received salaries, schooling and medical care. “We lived very well during the colonial period,” he told SARW researchers.

The full economic impact of the Mwami governance system has not been sufficiently researched. SARW was able to collect some empirical data, for example in connection with the efforts to strengthen compliance with international humanitarian laws and rights in artisanal mining sites, but much more research needs to be done. The statements of hundreds of artisanal gold miners, who were interviewed by SARW, prove that no economic activity takes place without the consent of the Mwami/Chefferie. Meanwhile, the remarkable variety of taxes, fees and *ntulo* payments demonstrate how arbitrary they are.

However, what is clear is that these arbitrary fees can net a Mwami a substantial amount of money, particularly in localities where he acts as both traditional leader and politically appointed Chef of a Chefferie and benefits from two revenue streams (see for example Table 1). Many Mwami count their subjects in the tens of thousands⁸. Even assuming poor ‘tax’ compliance by his subjects, a Mwami's income could reach staggering proportions – well into the tens or hundreds of thousands of US dollars.

	Itongwa <i>Mine manager</i>	Thierry Babingwa <i>President of the Association of Artisanal Miners of Mwenga</i>	Amuli Muzungu <i>President of the Miners of Nyamurhale</i>	Songa Iluba <i>President of the Association of Gold Traders of Kamituga</i>	John Kibukila <i>President of the Association of Gold Traders of Mapale/Lugushwa</i>
Local Officials (Groupment/Chefferie)	US\$60 per year	3 grams per month for Groupment; and 4 grams of gold per year for Chefferie		US\$60 per year	
Traditional leaders	US\$50 per year	Payments in raw gold varies from site to site	30 percent of production; and entire production of each Friday		US\$50 per year

Table 1: Taxes and fees imposed by traditional leaders and Chef of Chefferies

SOCIO-ECONOMIC CONDITIONS IN ARTISANAL GOLD MINING COMMUNITIES

COLLAPSE OF FAMILY STRUCTURES

Most artisanal gold mining families interviewed by SARW cannot – and do not – survive on the income generated by gold. Nevertheless, husbands and sons tend to continue to mine despite the overwhelming evidence that this will bankrupt them, and against the opposition of their wives and mothers. The result is that miners and their families face a merciless, daily struggle for survival – a struggle that undermines communities and even pits family members against each other. Indeed, SARW researchers discovered that the structure of communities and families have collapsed across eastern DRC because of gold.

Almost all the women interviewed during three rounds of field research revealed that their husbands, who are gold diggers, have effectively abandoned them. They raise their children without financial or other material support, while being exploited by their husbands. With rare exceptions, they live in dire poverty and have been emotionally, sexually or physically abused. Many girls are also abandoned by their parents at an early age. As for boys, they are frequently sent away from home to fend on their own – commonly ending up as child labourers on artisanal mining sites. They are often victimised, beaten or otherwise abused.

Analysing the testimonies collected during this research, the violence, brutality and abuse that women, girls and boys experience are clearly distinct but not unrelated to the violence that the DRC has suffered since the early days of colonialism. Colonialism brought a never-ending cycle of violence and economic exploitation that deeply eroded the traditional governance and moral structures of communities across the country, including in the gold mining regions of the east. Post-colonial upheavals, dictatorship and rebellions further undermined these communities. However, it is not only historic and external forces that have led to the current social collapse in gold mining communities, which are also wracked by poverty, alcoholism and drug abuse.

The miners' occasional income from gold is rapidly swallowed up by the fees, taxes and bribes they must pay to government officials, traditional leaders, military officials and policemen – who prey on the artisanal miners. Much of what is left the miners fritter away to pay for alcohol or sex, leaving their families with little – or nothing.

Exploited to the full and unable to provide for their families, gold miners often end up emasculated – and violent. Their desperation all too frequently turns into anger and an abusive relationship with their wives and children.

Meanwhile, the miners' wives strive to sustain themselves and their families through subsistence farming – with the occasional surplus being used to cover extra expenses, such as school fees, medical costs, and support for extended family members.

WOMEN – FARMING FOR SURVIVAL

Kavira is the wife of an artisanal gold miner and the 40-year-old mother of three children. She lives with her family in Ngoyo in South Kivu. “I farm manioc to produce flour, and also grow string beans and bananas while my husband is trying to make extra money from gold,” said Kavira. “But his work does not benefit us much.”

Fortunately, Kavira has been able to grow enough this year to sell some of her harvest, making about 2500 FC (US\$3) per market day. “After paying for all expenses and fees for the land, the extra money allows me to buy cloth, kitchen utensils and other necessities,” said Kavira.

She is adamantly opposed to gold mining as she describes the heavy toll it takes on their community. “Men and boys grow old quickly, eat poorly, and frequently get sick with tuberculosis or other diseases and back pain,” explained Kavira. “Either they come back from the mines handicapped for life or they lose their common sense when they find gold.”

Because men are not dependable breadwinners, Kavira argues that it is the wives who provide the food for their families, save money for medical emergencies, and pay for their children's schooling. “If a husband earns a little bit of money, he will never tell his wife,” said Kavira. “But women do as they are told by their husbands. We don't ask questions, complain, or challenge our husband's decisions.” Even if a man abuses his spouse, she will not report him to the police. “We stay silent because the pain and abuse we suffer is nothing compared to the public humiliation and shame that will follow us for the rest of our life for going to the authorities,” she added.

A 56-year old widow, who lives near the mining site of Ngoyo, did not want to reveal her name but spoke bitterly about the cruelties she has suffered all her life. “When my husband was alive he played the grand manager in all family affairs,” she said. “The man is the boss – this is a traditional rule.” His

supremacy was never affected by the fact that he was rarely able to support her and their children. “He took complete control of all my income from farming,” she added. “I had no right over my earnings whatsoever.”

According to the habits of artisanal miners the husband not only owns his wife’s income, but he is also free to do whatever he wants with it. The widow’s husband used her money to drink and help pay for his other family. “My money allowed him to find a second wife to start a new family,” she explained. “Once he was with her, he only dropped by to get my income.”

Even recently-married young women such as 18-year-old Patience Motema are no strangers to the deprivations that gold mining imposes on families. “Sometimes we go for months when my husband is not finding any gold, which forces us to buy the most essential items from local shops on credit,” Patience explained. “This has driven us so deeply into debt that we will never be able to pay back what we owe.” However, their desperate financial situation does not prevent Patience’s husband from acting irresponsibly with his earnings when he is lucky enough to find some gold. “He leaves me with a small insignificant sum that never covers our needs and spends all the rest on alcohol and women,” she complained. “Sometimes he does not sleep at home for weeks, or returns only very late at night and very drunk.” She has already concluded that she must bear the burden of feeding her family, which she struggles to do by farming a small plot of land in Kikundo.

29-year-old Pascaline Kahindo is another wife and mother who has long since concluded that her husband will not be able to support his family. Her farming nets the family around US\$250 in cash per planting season. “I never touch a penny because my husband keeps all the money in his pocket,” she said. On the other hand, his gold digging rarely generates any profit. “It is us the mothers who support the family but the husbands don’t recognize this fact,” explained Pascaline. “They also do not see the importance of educating our children. And if somebody in the family gets sick, I have to take care of them. Because of all of these problems I’m very much in favour of stopping all artisanal gold mining.”

Nevertheless, gold miners tend not to listen to their wives. “My husband says that listening to a woman is a waste of time,” said Pascaline. “He thinks women are objects of pleasure and reproduction, and believes strongly that we women are similar to children.” Along the same lines, most women told SARW that their husbands do not want to acknowledge the importance of their wife’s farming for the survival of their families.

In a strange twist of fate, Pascaline’s wish for her husband to abandon gold mining and turn to full time farming became reality for a short period of time. “When President Kabila imposed the mining ban in 2010, my husband and boys had no reason to go to the mine because they could not have sold any gold even if they had found any,” she explained. Consequently, her husband and sons followed Pascaline to the fields and worked with her there every day. “During that time we did very well and we were able to grow a lot more food,” she recalled. “We never went hungry and made a nice profit from selling the surplus produce.” But as soon as the mining ban was lifted, the old misery resumed. “Now, our men hang around the mines again and whatever money they make, goes straight to drinks and sex instead of supporting their families,” complained Pascaline.

19-year-old Razeli Kyakimwa is the daughter of a gold digger, who lost the support of her parents many years ago. She earns a meagre living by running a little business, which supports her

Interview: ‘Acie’ – Rape survivor from Ludiwndja in South Kivu

Q: What work do you do?

A: I used to be a student but have abandoned my studies in 6th grade. Until I got pregnant I used to work in the mines, carrying sand bags or transporting beer and alcohol from the commercial center Ciburi to the mines.

Q: How much did you earn for how much work?

A: Usually, I would be able to do two tours per day for which they paid me 1500 FC.

Q: Do you have children?

A: Yes – one.

Q: How did you get pregnant?

A: It was here in the mine. A man raped me and made me pregnant. He lured me to an isolated place in the mine where they usually sleep. There was nobody there who could have heard. Then he ran away. My uncles tried to find him but he was already gone. I wanted him to be punished because he raped me.

Q: After you were raped, did you go to the hospital?

A: No, my mother did not have money to pay for the hospital costs.

Q: Are you still working in the mines?

A: No, after I had my child I don’t go there anymore.

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and her younger brothers but puts her at daily risk. “I have to go to the mines to sell food and other goods to the miners but a young woman who goes alone there, easily gets into trouble,” she said. Even more risky is her need to sell to miners who in many cases do not have any cash. “Every time I sell them something, I have to extend credit and hope they pay me once they find gold,” Razeli explained. “Sometimes I have to fight for my money when the clients think they can get away without paying their debts.” She usually takes the miners who refuse to pay to the local Council of the Wise, or she goes straight to the police. There is no doubt that Razeli is an exceptionally prudent and hard-working young woman but she has still only managed to save around 27,000 FC (US\$30).

Jacqueline Masika is a married mother of five children, whose gold mining husband has not contributed much to raising their sons. She, too, is opposed to mining. “It is enormously hard work, the men age very quickly, and the search for gold destroys the spirit of the young ones”, said Jacqueline, who also knows that gold lures children away from school. When her youngest son started to skip classes she immediately sent him to her sister in Butembo. “I did not want him to slip away from my control and become a miner too.” Jacqueline suffers from no illusion about how hard life can be as a farmer. “But it gives me dignity and makes me feel proud about myself,” she said. “I have even been able to pay for extra land for each of my five children. This makes me happy because even if I die right now, I know that my children and their children will be able to survive.”

CHILDREN - MINING INSTEAD OF LEARNING

Gold mining has a particularly destructive impact on children. For those whose families regularly teeter on the brink of starvation the choice is simple. “Going to school is a waste of time for them,” said Lillian, a teacher. “Gold is too tempting. 10-year-olds threaten me with physical violence if I ask them to return to school.” Although it is widely understood that the law forbids children working as miners, police controls are sporadic and almost always unsuccessful.

Doudou Muhima is a typical example of a young man overcome by greed for gold. He ran away from home and school when he was eleven years old, after he discovered that “with the money I make from the gold I can buy whatever I want: drinks, clothes, food.” His unscrupulous pursuit of his personal needs has not stopped since. He is now 16 years old and married with two children and still works as a gold miner in Bilulu. “I don’t care about my wife and our children,” he said. “I pay for their food and clothes when I want but I’m the boss of the family. If she complains I will kick her out and get another woman.”

Kilima, a 16-year old boy from Kikundo, dropped out of school in fourth grade to start working on the mines, which often involves him and his friends spending the night at the pits so that they can work late or act as guards. And for this, he earns just 1500 FC per day. However, despite these hardships, Kilima is proud of his position. “This work teaches me to be free in life,” he said. “If I want beer, I drink beer. If I want a woman, I have one.”

Not all young artisanal miners behave like Kilima and Doudou. Somet Kambale is a 12-year old boy, whose parents no longer support him. Like all the other young men in his community, he was expected to leave school and head for the mines. So he did what was expected and joined a group of boys who work in the gold mines of Ngoyo. “We are well organized,” Somet explained. “Whenever we have money left over, we invest it in good tools such as heavy hammers, picks and spades or a better basin to wash gold.” In addition, Somet avoids the usual temptations. “I don’t spend my money on women and alcohol,” he said. “I save as much money as possible. I want to build my own house in a year’s time.”

11-year-old Alphonse Kitambala is also trying to use his earning wisely. For the time being, he goes to school in the morning and then works with a gang of other boys in the afternoon at the mining site of Kisitu. “With the money I make from the gold I can pay my school fees and the other things I need,” explained Alphonse. “Sometimes we find nothing, but there are days when I go home with 2000 Francs in my pocket.”



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Another boy who struggles without parental support is Cuma Rutshuba. He is now 15 years old, married and already the father of one child. His father died years ago and Cuma grew up in extreme poverty, which left him no choice but to drop out of school and start washing gold along the local rivers. “I was forced to join a small-scale mining company but as one of the youngest employees, I earn very little,” said Cuma. His boss claims that his pay is so low because the company has to spend most of its income on bribes for government representatives, the police and security officials.

ALCOHOL - LUCRATIVE BUT DANGEROUS BUSINESS

Nicole Mawazo lives in Ngoyo and has built up a successful business by combining farming with operating a small restaurant. Forced to look after herself and her brothers after Rwandan or Ugandan soldiers killed her parents, Nicole began producing ‘Kindingi’ – a home-made, highly alcoholic, corn-banana brew, which she sold to artisanal miners. Eventually, she saved up enough to start farming and running a restaurant. “This has provided well for us,” she explained proudly, adding that her husband contributes almost nothing to the family. “I am paying for my brothers’ education and living costs while they are attending university in Kisangani. I also raise my own children.”

Anna Cape, a 40 year old mother of eight children, is struggling to make ends meet as a small store owner and by farming a small patch of land in Lushiga, South-Kivu. She sells bread, peanuts, bananas, avocados and Kanyanga – a home-brewed beer. But Anna is facing a serious problem because most miners are rarely in a position to pay for what they want to buy. Yet they expect to be fed anyway on credit. Even so, alcohol has become an important source of income for many women. Indeed, it is one of the few really lucrative businesses in gold mines. “We move around among the miners with canisters of beer and Kanyanga and sell it by the glass,” said Anna. “The miners buy one drink for 150 Francs each. They do so frequently throughout the day, no matter what time it is. It is not unusual for miners to be very drunk as early as 9 o’clock in the morning.”

Christine Kavugho is the daughter of a gold miner and is also taking advantage of the miners’ endless thirst for alcohol by operating a small restaurant. “This is how I can buy the things I need, like soap, salt and other products,” she said. Even though she has to visit the mines as part of her work, she does not stay long, and makes sure that she ignores their advances. “I know how they conduct their lives,” said Christine. “They court me a lot but to me they are only clients. My job is to sell them as much food, cigarettes, and drink and be careful that I sell only to the honest ones – who will pay me back eventually.”

If any of the saleswomen save enough money, they usually start a small bar or cabaret and diversify their stock, usually by adding commercial beer brands to their inventory.

However, selling alcohol does come with another price. It contributes to the large number of sexual attacks on women. “Faida arrived here from Ngweshe with the intention of starting a small shop but a local miner raped her,” recalled Anna. “Faida was very young, very naïve, very defenceless and had nobody to protect her. She was like a small bird surrounded by hungry snakes.”

SELLING SEX TO SURVIVE

For more than half of her 30 years, Nono Masika from Butembo has been a sex worker. “I don’t charge a fixed price and I will adjust according to the client, his circumstances and how much he can afford,” said Nono. “But I never go below 5000 FC.” Considering that only the shrewdest business women claim to earn 1500–2500 FC from selling food or drink, this is a staggeringly high income for an unskilled woman in eastern DRC. It helps to explain why so many young women are drawn to sex work as it does offer them the opportunity to become independent and self-reliant. However, the risks – including sexually transmitted diseases and violence – are enormously high too.

While many women object to the presence of sex workers, Nono Masika believes that she is providing an important service. “I help men who experience sexual difficulties,” she said, adding that she is obviously doing something right since there is a great demand for her services. “I like my work because I have been able to earn a good life and have saved some money.”

There is no reliable information about how many young women and girls are engaged in sex work and what percentage of them have managed to make a living like Nono. There is also no information about how many have caught sexually transmitted diseases or been victims of violence. And that is also the case for the whole community.

Nicole Mawazo knows that rape and sexual violence occur in her community and how reluctant the villagers are to take such matters to the police – partly because rape is not always viewed as a serious crime and partly because most parents consider that sexual attacks can be “handled by the traditional leaders of the village.” The result is acknowledgement that rape and other sexual violence is widespread but no evidence of exactly how widespread it is – and no real attempt to bring the rapists to justice.

LEGAL FRAMEWORK

Congolese and African Union (AU) laws and charters speak in detailed and unambiguous language about humanitarian rights and the obligation to respect and give force to these rights by states, communities and all individuals. The following overview merely highlights how grotesquely the observed practices in the gold mining communities violate important laws and rules.

Citing the legal framework that should regulate and guide all humanitarian and gender-related interactions in mining regions may strike some as unrealistic – and perhaps it is overly idealistic to hark back to laws that many have forgotten, most ignore, and nobody obeys. However, a society that has lost touch with its own legal and moral foundations must start to rebuild itself somehow, and its own, self-chosen laws and social rules are probably the best place to start.

THE CONSTITUTION OF THE DEMOCRATIC REPUBLIC OF CONGO

The Congolese Constitution reaffirms in its preamble the nation's commitment to the Universal Declaration of Human Rights, the African Charter on Human and Peoples' Rights, and the United Nations Conventions on the Rights of the Child and on Women's Rights.

In relation to women, Article 12 sets forth that 'all Congolese are equal before the law and have the right to equal protection by the law'. That guarantee is elaborated in Article 14, which states that the 'public authorities must see to the elimination of all forms of discrimination against women and ensure the protection and promotion of their rights' and that 'they must take measures in order to fight all forms of violence against women in their public

and private life'. Meanwhile, Article 15 states that the 'public authorities are responsible for the elimination of sexual violence used as an instrument in the destabilization and displacement of families'.

The constitution also contains clauses related to the relationship between parents and children. Article 40 states that 'for the parents, the care and the education to be given to children constitute a natural right and duty which they exercise under the control and with the assistance of the public authorities'. Article 41 further specifies that the 'abandonment and maltreatment of children...are prohibited and punishable by law'. Parents have a duty to take care of their children and to ensure their protection against any act of violence inside as well as outside their parental home. Meanwhile, the authorities have an obligation to ensure the protection of children in a difficult situation and to bring the authors of acts of violence against children and their accomplices to justice.

As for education, Article 43 establishes the duty to attend and guarantees free access to basic primary education in public establishments – a principle reiterated in Article 45, which states that 'Education is free'.

Finally, Article 61 defines what constitutes a fundamental obligation on the state as something that can never be set aside 'not even when a state of siege or state of emergency has been proclaimed in accordance with Articles 87 and 88 of this Constitution' and includes the:

- Right to life;
- Prohibition of torture and of cruel, inhumane or degrading punishment or treatment;
- Prohibition of slavery and servitude;
- Principle of legality of offenses and

penalties;

- Right to a legal defence and the right to a remedy; and
- Freedom of thought, of conscience and religion.

THE AFRICAN CHARTER ON HUMAN AND PEOPLE'S RIGHTS

While most of the Charter's provisions express principals of critical importance to the miners of the eastern DRC, the following are particularly relevant.

Article 3 states that every individual shall be equal before the law and that every individual shall be entitled to equal protection of the law. In addition, Articles 27-29 describe the duties of all individuals living within the territory of the African Union, including that:

- Every individual has duties towards his family, society, the State and other legally recognised communities;
- The rights and freedoms of each individual are limited by the rights of others, collective security, morality and common interest;
- Every individual has a duty to respect and consider his fellow beings;
- Every individual has the duty to preserve the harmonious development and cohesion of the family, respect family and parents and maintain them in case of need; serve his national community with his physical and intellectual abilities; preserve and strengthen social and national solidarity; preserve and strengthen national independence and territorial integrity by contributing to its defence; work to their best abilities and competence and pay taxes imposed by law; preserve positive African cultural values in the spirit of tolerance, dialogue, and consultation and to promote the moral well-being of society; and contribute to the promotion and achievement of African unity.

THE AU CHARTER ON THE RIGHTS AND WELFARE OF THE CHILD

The AU Charter provides important guidance for the implementation of national laws that protect children. Under Article 2, a child is defined as any human being below the age of 18. Article 4 stipulates that ‘in all actions concerning the child undertaken by any person or authority the best interests of the child shall be the primary consideration’.

In relation to education, Article 11 states that State parties shall provide free and compulsory basic education, and take special measures in respect of female and disadvantage children, to ensure equal access to education for all sections of the community. Meanwhile, Article 15 regulates child labour by stating that:

- Every child shall be protected from all forms of economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child’s physical, mental, spiritual, moral, or social development; and
- State parties should take all appropriate legislative and administrative measures to ensure the full implementation of this Article, which covers both the formal and informal sectors of employment, while having regard to the relevant provisions of the International Labour Organization’s instruments relating to children.

Article 16 obliges AU member states to take a number of specific legislative, administrative, social and educational measure to protect against all forms of torture, inhuman or degrading treatment, physical or mental injury or abuse, neglect, maltreatment including sexual abuse and child marriages under the age of 18. Additional requirements

– for example, against the sexual exploitation of children or the use of children in sex work or other sexual practices, or against the consumption of drugs – are mandated under Articles 27 and 28.

THE AFRICAN CHARTER ON HUMAN AND PEOPLES’ RIGHTS

Many important concepts for the protection of women’s rights are enshrined in the AU Charter. The most important is outlined under Article 2 and obliges “State Parties to combat all forms of discrimination against women through appropriate legislative, institutional and other measures.” Specifically, the Charter calls for the:

- Principle of gender equality to be included in national constitutions and other legislative instruments;
- Implementation of legislative or regulatory measures against all types of discriminatory practices;
- Integration of gender perspectives in policies, laws, development plans, programmes and all other activities; and
- Eradication of gender discrimination wherever it exists.

Article 4 defines the basic entitlements afforded to women, which include that every woman is entitled to respect for her life, integrity, security and protection against exploitation, cruel, inhuman or degrading punishment of treatment. In addition, the Charter calls for laws to prevent, punish and eradicate all forms of violence against women, and the active promotion of education to eradicate traditional and cultural beliefs, practices and stereotypes that harm women.

Meanwhile, Article 6 obliges States to ensure equal rights and to enact laws that make men and women equal

partners in marriage. Specifically, States are to guarantee that:

- No marriage takes place without the free and full consent of both partners;
- The minimum age of marriage for women is 18 years;
- Monogamy is encouraged and rights or women in marriage and family are promoted and protected;
- Marriages are registered in written records and legally recognised; and
- Decisions over matrimonial regime, residence, name of woman, her and her children’s nationality, safeguarding of family and education of children, and acquisition, administration and management of property is based on mutual agreements and in a manner that women retain full rights.

Article 7 regulates separation or divorce proceedings by ensuring that they shall be effected by judicial order; that women and men have equal rights to seek separation, divorce or annulment of a marriage; that women and men retain reciprocal rights and responsibilities towards their children; and that women and men have equitable rights to their joint property.

In relation to women’s health and reproductive rights, Article 14 protects a woman’s right to

- Control her fertility;
- Decide whether to have children;
- Choose any method of contraception;
- Self-protection and to protection against sexually transmitted infections;
- Information about her health status and the health status of her partners; and
- Family planning education.

Finally, Article 21 states that a woman has the right to equitable shares in the inheritance of property owned by her husband or her parents.

CONCLUSION

Over the course of a year, SARW researchers have visited communities across eastern Congo and documented how the artisanal gold mining industry has failed to contribute to poverty reduction or genuine socio-economic growth. Artisanal gold mining only enriches so-called traditional local leaders and corrupt regional and national political and military elites, as well as criminal networks both inside and outside the Congo. It does nothing for miners and their families and does not help to rebuild broken communities. On the contrary, artisanal gold mining only serves to further undermine the fabric of society.

SARW is not aware of any convincing or comprehensive programme that could help to rescue artisanal gold mining communities. The current debates within Congo and the international community revolve around the formal mining sector. The problems of the informal artisanal sector are neglected or deferred. The hope is that with the growth of industrialised gold mining some artisanal miners will be absorbed into the formal sector and will reap the benefits. However, for those left out – surely the majority – the only alternative will be to relocate to sites with even scarcer deposits and even fewer opportunities to escape the poverty cycle.

The lack of a comprehensive plan leaves hundreds of thousands of Congolese artisanal mining families struggling to survive on subsistence agriculture, home-brewed alcohol or sex work. In addition, local insurrections against mining companies and the formation of new mini-militias point to increasing tension and frustration, which could boil over into serious conflict.

To effectively counteract these negative trends, the Congolese government should focus on diversifying the economy in the east – a long-term endeavour that requires a multitude of initiatives and partners. The Congolese government should allocate some of the revenues derived from the extractive industries to build the economic capacity of these communities. It should also call on the international community and the World Bank to assist by investing at least as much in artisanal mining communities as they are already investing in relation to the formal mining sector. The World Bank's

new Country Assistance Strategy should take into account non-mining industry needs in the eastern provinces and encourage the 17 donors that participate in the Assistance Framework to allocate resources to help meet these needs.

However, while standard development strategies and alliances have a critical role to play in the long-term socio-economic growth of eastern Congo, the following urgent steps need to be taken by the Congolese government and/or the international community to start empowering women and girls, boost agricultural production and tackle acute poverty:

- Provide a broad package of support to rapidly enable women to transform their subsistence farming activities into more commercially viable operations – through financial support for critical equipment such as tractors, silos and irrigation systems; assistance with establishing cooperatives; provision of tools and seedlings; and training in more effective farming and marketing techniques;
- Develop micro-credit systems that can help to free women from the dictates of husbands and traditional leaders, and provide them with the seed capital needed to transform their farming activities or businesses into operations that generate enough income to cover the basic needs of their families – from food to health to education;
- Identify the most promising opportunities linked to agricultural production, including new or under-exploited initiatives that add value to basic agricultural goods and could provide a more secure and sustainable living for mining families, and which also take into account the advantages and disadvantages of all the different parts of eastern Congo; and
- Congolese politicians must be made aware of their responsibility to protect the most vulnerable members of society and of how they are failing in their duty – perhaps by requiring all local leaders or authorities to publish a detailed report of the situation in each locality.

ANNEX 1: METHODOLOGY AND SCOPE OF RESEARCH

The SARW assessment was initiated in September 2011. Twelve Congolese experts and researchers were initially brought together in Goma to develop a research agenda, and agree on a methodology. Following these preparatory steps, the researchers commenced their monitoring of artisanal and small-scale gold mining communities in the provinces of Maniema, Orientale, North- and South-Kivu. During the course of this lengthy project, monitoring took place at the following mining sites:

North-Kivu:

Omate and Osso in Walikale Territoire; Manguredjipa; and Bilulu, Kikundo, Kisitu and Ngoyo, which are part of the larger Mununze deposits in Lubero Territoire.

South-Kivu:

Kimbi, Mukera, and Misisi in Fizi Territoire; Kairenge, Kanyanja and Nyawaronga in Kalehe Territoire; Kalingi Tulingi, Kazi B, De Luliba, Mobale, Mubumbano, Mukungwe and Mulambi in Kamituga Territoire; Compresseur, G-7, Kazi B, Mobale,

Nkambye, Luliba, Mero Tchanda, Mulambi, Kalingi Tuliona et Tchondo, Kadumwa, Kashegeshehe, Lukunguri, Nkambye and Nyamurhale in Mwenga Territoire; and Cirehe, Kaji, Katera, Mukungwe and Ntula in Walungu Territoire.

Maniema:

Kamina, Inunena, Kesende, Bisengo, Meka Lisusu, Tambula Malembe, Mutovu, Kangonga, Tutaonana Haya, Lembelembe, Katobo et Mali ya Tabu, Boondo and Zua Idée in Kailo Territoire; Bikenge in Kasongo Territoire; Salamabila in Karambare Territoire; Kaminanga, Kampene, Kabulondo, Katambwe, Nyatupolo, Kamboko II, Autonôme, Toyokana, Mabikwa and Kasanga in Pangi Territoire; and Katchokolo, Kamanyola, Matumba and Boningina in Punia Territoire.

Orientale:

Mabanga in Djugu Territoire; Nizi/Iga-Barrière in Mongbwalu Territoire; Gety in Irumu Territoire; Mambasa in Mambasa Territoire; Baye and Seminor in Bondo Territoire; and PK83 and Panga in Banalia Territoire.

ENDNOTES

1. By September 2012 companies licensed to explore or exploit gold deposits in Orientale, Maniema, North- and South-Kivu provinces had reported a total of 26 million ounces of measured, indicated or inferred gold reserves. However, most companies have not yet researched their territories and so have not yet published their full estimates. In addition, no assessment exists of the deposits where only artisanal and small-scale mining currently takes place.

2. *Bwami* is the plural for *Mwami*, a term widely used in Bantu language regions to signify a leader. While some Congolese societies use the term to describe a king, others use it to mean a leader with occult powers. In South-Kivu,

Bwami secret societies of the Lenga were prosecuted by the Belgian colonial authorities for fostering insurrections and disobedience.

3. *Colonialism in Africa 1870 – 1960, Volume 3 Profiles of change: African society and colonial rule*; edited by Victor Turner, Cambridge University Press 1971; p 194.

4. The following discussion follows largely *The Conception of land ownership in African customary law and its implications for development* by Kwame Akuffo in *African Journal of International and Comparative Law Vol 17/1*, 2009, pp. 67-71

5. *ibid*, pp. 74

6. *Colonialism in Africa 1870 – 1960, Volume 3 Profiles of*

change: African society and colonial rule; edited by Victor Turner, Cambridge University Press 1971; pp 206

7. The following section follows *The Dual State, Chapter 6. The Unusual Suspects: Africa, Parapolitics and the National Security State Complex*, Enrico Carisch, Ashgate Publishing, London 2012, pp. 178-179

8. The total population under the control of a *Mwami* from Orientale and North Kivu provinces as part of his *Chefferie* varies from around 46,000 to over 70,000, according to SARW interviews. The precise nature of the taxes and fees imposed by the *Mwami* were described only vaguely and with no specific fee or tax structure indicated.



The mission of the Southern Africa Resource Watch (SARW) is to ensure that extraction of natural resources in southern Africa contributes to sustainable development, which meets the needs of the present without compromising the ability of future generations to meet their needs.

SARW aims to monitor corporate and state conduct in the extraction and beneficiation of natural resources in the region; consolidate research and advocacy on natural resources extraction issues; shine a spotlight on the specific dynamics of natural resources in the region and building a distinctive understanding of the regional geo-political dynamics of resource economics; provide a platform of action, coordination and organization for researchers, policy makers and social justice activists to help oversee and strengthen corporate and state accountability in natural resources extraction; and, highlight the relationship between resource extraction activities and human rights and advocate for improved environmental and social responsibility practices.

SARW focuses on 10 southern Africa countries but is also working to build a strong research and advocacy network with research institutions, think tanks, universities, civil society organizations, lawyers and communities in southern Africa, the African continent and beyond that are interested in the extractive industries as it relates to revenue transparency, corporate social responsibility, human rights and poverty eradication.

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