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1. INTRODUCTION

«When you flee from an attack, you take the kids, but some who fall and die in the crush, or are trapped in the mud of the marshes. One mother fled with her two young children, twins, and one fell and died, crushed by the people fleeing. You have to swallow your tears and carry on running. And when we find some remote spot in the forest, we stop.

The forest is dark and cold, day and night. We ate some rare roots and wild fruits. It was impossible to light a fire and cook because the smoke would at once have given away our presence to our pursuers. For the same reason we couldn't keep hens or chickens, since their noise would have indicated our presence. We would crawl out of the forest to snatch some cassava from the edge of a field and hurry back. But knowing this, the militia were waiting around the fields or the river to attack us.

When danger was nearer we moved further into the woods. There the enemy was hunger. To put something into our children's stomachs, we gave them the sand from the river, mixed with water, or mud, and we ate that too. Our faces, stomachs, legs, began to swell. Many of our children died in the woods! Even now, many people are spending the night in the bush for fear of attack.»

Testimony of Ester Mwinja Nsimi, Teresina Caffi
The War experienced by women[1] (2006)

«Adon Kalenga works seven days a week digging minerals from the soil without gloves. He is 13 and lives in Katanga, in the Democratic Republic of Congo. He is homeless and cannot afford the $6 a month it costs to go to school. Sometimes he sleeps in the street, other times in an orphanage. Most of the time he can find work, he makes $3 a day. He is one of the 67,000 people in Katanga who make a living by extracting stones containing two minerals that are sought-after all round the world: copper and cobalt. Copper, red-brown, is used to make electrical wires needed to light the world's cities. Cobalt, a silver-gray metal, is used to make aircraft engines, ink and mobile phone batteries.

Katanga, [...] has 4% of the world's copper and a third of the world's reserves of cobalt. The minerals that Adon and children like him dig from the hard red earth are transported to smelters afar way from the impoverished cities close to the mines. Most of these oxidized ovens, fed by hand, are owned by companies based in a far-away country that was founded on an ideology that exalts the rights of workers: the Republic of China. Adon's left shin has a scar from a fall suffered during a landslide three years ago, which killed some workers, including four of his young friends.

[...] Actually, Adon and his colleagues practice a chaotic form of capitalism, with very little supervision by the company or the state. The artisanal miners are not employees, they are self-employed go-betweens who sell what they have extracted and cleaned.»

S. Clark, M. Smith, F. Wild
China Lets Child Workers Die digging in Congo Mines for Copper[2] (2008)

What have these two stories in common? They each take place in mineral-rich areas of the Democratic Republic of Congo (DRC) and their protagonists are poor people involved in mining. In the first example, from wooded areas near Lake Kivu (north-east of the DRC) the relationship to mining is not evident. However, the armed groups who kill, rape and terrorise the population are largely funded through various kinds of extortion imposed on the people who mine coltan, gold and tin. The minerals are transported through the border towns of Bukavu and Goma, and illegally exported to Rwanda and Burundi, from where they will be integrated into the global market. In the second case, the province of Katanga (south-east of the DRC) has no problem with armed groups. But thousands of children and adults in the province –called artisanal miners– mine copper and cobalt ore in poor conditions of health and safety. The ore is transported and sold to companies that turn it into copper and cobalt for export. Since 2002, the industrial processors have gained legal rights to the mines in the province, and are displacing most artisanal miners.

Thus, the main actors in our drama have appeared: the companies, the militias, politicians... and in the centre of our focus, the suffering Congolese. This scenario is not situated in the mythical King Solomon's Mines, hidden somewhere in Africa as in the Victorian novel by H. Ridder Haggard (1885), but in the mines of the DRC, a country considered to be the private property of King Leopold of Belgium between 1885 and 1908: so the stories take place in 'King Leopold's Mines'.

This report is the result of long hours of study on the situation of the DRC in our offices in Barcelona (Cristianisme i Justicia) and Brussels (Jesuit European Social Centre, or JESC) and of meetings in Europe with people who know and love the DRC; and, above all, after field trips to Kinshasa, to the province of Katanga, and to the region of Lake Kivu. The trips took place from 2007 to 2012. Our thanks go first to the Congolese we met during these visits: they have shared with us their hopes, plans and strategies to rebuild a vast country, beautiful, pregnant with a hopeful future.

2. THE DRC[3]

The DRC, with 68.7 million inhabitants in 2011, is the fourth most populous country in Africa (after Nigeria, Egypt and Ethiopia). It is a huge country: with 2,345,410 square km, it exceeds the sum of the areas of all countries of Western Europe.

2.1. Situation in the DRC

Its terrain has been termed 'a geological scandal' for its mineral wealth (which include cobalt, copper, cadmium, petroleum, diamonds, gold, silver, coltan, zinc, manganese, tin, germanium, uranium, radium, bauxite), and has been called 'the breadbasket of Africa' for its agricultural potential. Yet it is one of the poorest countries on earth: the classification of the United Nations Program for Development (UNDP) in 2011 ranks it in 187th place, the last country of all listed ones.

A major cause of this poverty is the weakness of the state's presence across the whole territory: with an annual budget equivalent to the city of Antwerp (a city of 400,000 inhabitants), the administration cannot effectively provide basic public services (security, education, health, social services, infrastructure) for its inhabitants.[4] This situation is compounded by the country's ethnic complexity: the DRC has 280 ethnic groups and tribes, many of which share land with other ethnic groups. 212 languages are spoken. The DRC shares borders with nine countries, and external conflicts have decimated its wealth and development. With four of its neighbours (Uganda, Rwanda, Burundi and Tanzania), it comprises the region called «Great Lakes» (Lakes Victoria, Albert, Edward, Kivu, Tanganyika, and Moero). Since the mid-1990s armed conflicts in this region have been exceptionally bloody.

2.2. Recent history

Many years after the Portuguese colonisation at the end of the 15th century (a weak and commercial colonisation spreading from the Atlantic coast), the European presence made itself felt by the end of the nineteenth century. Indeed, in 1885 King Leopold II of Belgium turned what is today the territory of the DRC not into a Belgian colony, but into his personal possession. From that year, Leopold, and certain companies with concessions, exploited and exported ivory and rubber, subjecting the natives to forced labor, slavery and torture. The international campaign of denunciation, and changes in diplomatic balances of power, forced Leopold to sell this 'personal possession' to the Belgian State in 1908. As a Belgian colony, the country's situation improved somewhat, although the colonists often blocked the educational and cultural development of the indigenous population.

Independence was declared on June 30 1960, under the leadership of President Kasavubu and Prime Minister Lumumba. However, the low level of leadership experience in the new ruling class, the lack of political cohesion of the population, and continued economic dependence on foreign powers in a Cold War context brought about the failure of the country's economy and its democracy. In 1965 the military officer Joseph Désiré Mobutu seized power, to «bring order, create a state, and create a nation». In 1966 he suppressed the parliament and in 1970 decreed a one-party state. In 1973 he drove forward a process of *zaïrianisation*: selective economic nationalisation so as to control the financial and economic fabric of the country. Corrupt management led to progressive economic disaster. Yet Mobutu cultivated friendship with the USA and other Western countries, since this would assure his position as a strategically central, anti-communist ally. But at the end of the Cold War, the dictator was abandoned by his Western sponsors, and in 1990 he was forced to start an internal process of democratisation.

Amidst a full-fledged economic and political crisis in August 1996, Laurent-Désiré Kabila, a former communist guerrilla, took up arms against Mobutu in the area of Lake Kivu. His rebellion was supported by President Museveni of Uganda and President Kagame of Rwanda, the USA's new regional proxies.[5] Mobutu's regime was so weakened that by May 17, 1997 Kabila had conquered the whole country and was proclaimed President. In exchange for financial and military support in his advance towards Kinshasa, Kabila signed major mining contracts with foreign corporations and surrounded himself with Rwandan and Ugandan troops. After his installation in Kinshasa, tensions with his staff, who wanted to annex parts of eastern DRC to Rwanda, Burundi and Uganda, exploded on 3 August, 1998: Uganda and Rwanda invaded the Kivu provinces militarily. At the same time, they formed a supposedly Congolese political party (the Congolese Alliance for a Democratic DRC, based in Goma, North Kivu), to create the appearance that the conflict was a civil war. But the open struggles between Ugandan and Rwandan forces for control of the diamond gold mines of the East, revealed the powerful economic motives of the war. In November 1998, in the impoverished north of the country (the Equator and Eastern Provinces) the warlord Jean Pierre Bemba opened another front, supported by the Ugandan army.

In early 2001, the international community proposed that the three-way military conflict should give way to an agreement between the contenders: President Kabila refused. However, on 16th January 2001, Kabila was attacked in Kinshasa, and died two days later. He was succeeded by his son Joseph Kabila, one of the High Commanders of the Armed Forces. Although neither the cause of the killing nor the killers had been identified, important rich countries (France, Belgium, the USA) and international organisations (UN, IMF, World Bank) quickly recognised the new President, who signed a peace accord with his rivals, and formed a transitional government under international protection, with the participation of armed groups and civil society,. There began a democratic transition full of obstacles: but this culminated, in July 2006, in the Third Republic, and the first free multiparty elections since 1960. President Joseph Kabila was elected, and Jean Pierre Bemba became leader of the opposition.

In late 2011, a presidential and legislative election, with substantial irregularities, resulted in the re-election of Kabila as President. However, his family and his party have managed the country with little transparency and are losing legitimacy in the eyes both of the Congolese people and of the international community.

3. MINING IN THE DRC

'King Leopold's Mines' are located mainly in central and eastern Congo. Diamonds are found mainly in East and West Kasai; copper, cobalt and uranium in Katanga; gold and tin in Maniema; coltan in North and South Kivu; and gold in the Eastern Province.

3.1. Two political-industrial models

In the Kasais and in Katanga the colonial mining industry gave way in 1960 to corporations of the independent state of Congo/Zaïre. However, these companies were progressively ruined by the mismanagement and corruption of the Mobutu regime. As the mines ended industrial production, a growing number of Congolese poured in to exploit the minerals by hand: these are called 'artisanal miners'.

During the wars of 1996-2002, the number of artisanal miners grew further, as the mining was extended to areas without a mining tradition (the Kivus, Maniema and Eastern Congo); there, however, other economic activities (agriculture, cattle-raising or general trade, decimated in the 1980s and 1990s by Mobutu's the mismanagement and corruption) decreased further because of the activities of armed groups. Moreover, as already noted, control of the mining areas was a primary objective of the military invasions from Uganda, and Burundi. In these invasions, some Western mining companies connected with global mafias played a key role. The looting associated with the wars of 1996-2002 was stark and brutal: one or other warring party robbed banks, plantations, pillaged mines, factories materials, agricultural and livestock. This situation, which prevented any peace agreement, led to the formation, under Resolution 1304 of the UN Security Council, of the 'Group of Experts' that visited the areas concerned to understand the reality. The Group presented two reports in 2001, explaining in detail the involvement of various actors in the illegal exploitation. The reports indicate that the governments most involved (and some members of government, acting for themselves) were those of Rwanda, Burundi and Uganda. President Laurent Kabila himself was reported to have received sums from mining companies to finance their wars. The looting was carried out in collusion with banks, airlines and European, American or African mining companies. Business leaders, foreign military officers, and rebel leaders not integrated into the new Congolese regular army, and arms dealers, were similarly involved. The main losers are the Congolese people itself, who suffer egregious human rights violations, and who see the country's external debt mount while being deprived of financial resources for development.

In 2002, at the end of the second war, the transitional institutions enacted a new mining code to regulate the activity of the sector. The Code, strongly influenced by the World Bank, liberalised and privatised mining concessions, theoretically with the aim of increasing state resources and thus promoting national development.

The reality, though, is complex, and the law cannot achieve the intended economic development. To deepen our understanding of the Congolese mining sector, we must distinguish between two political-territorial economic models currently being developed in the DRC:

a) Provinces with high-level conflict: we refer to the North-Eastern Provinces: Eastern Province, North Kivu, South Kivu and Maniema. Historically, these regions were less populated, poorer, more rural and less educated, because the pre-colonial kingdoms and colonisation penetrated far less here than in the South and West. They are also neighbours of countries such as Uganda, Rwanda and Burundi, which combine poverty and dense populations in a cocktail that produces and exports conflicts. Finally, the trade of these provinces was historically not mining, but agriculture and long-distance trade. There was no colonial mining and the extraction of minerals such as coltan, tin or gold began only from the 1990s, with a few companies and a vast preponderance of artisanal miners.

b) Regions with low-level conflict: these regions are mainly Katanga, and East and West Kasai. They are in the South, historically more populous, richer, with a dense network of cities, and more educated. Mining (diamonds in the Kasais; copper, cobalt and uranium in Katanga) dates from the colonial era: the large industrial companies, as noted above, gave way after independence to state-run companies. Following the approval of the Mining Code of 2002, between 300 and 400 companies are extracting minerals in Katanga, especially copper and cobalt.

These two political-industrial models reflect two scenarios of the drama we have described. Such stories unfold as we began by presenting: of poor families torn apart by a bloody conflict fuelled by income from mining; of the thousands of children and youth mining copper and cobalt ore in precarious conditions of education, health and safety. These artisanal miners come into conflict with global industrial interests represented by foreign companies that began operating in 2002. We shall illustrate the two models in the following sections: first describing the situation in the region of Lake Kivu (high-conflict), then the situation in the province of Katanga (low-level conflict).

3.2. The situation in the Kivus

3.2.1. The region of Lake Kivu

Situated in the North-East of the country, bordering Uganda, Rwanda, Burundi and Tanzania, the Lake Kivu region was divided into two provinces: the North Kivu has Goma as its capital, South Kivu's capital is Bukavu. The two Kivus together have an area of 125,000 square km, and in 2012 had about 10,400,000 inhabitants. While these are not traditional mining provinces, today coltan (tantalum ore), wolframite (tungsten ore) and cassiterite (tin ore) are all extracted.

After independence in 1960, the profitability of the mining sector progressively decreased. In 1976 there was created SOMINKI (*Société Minière du Kivu*), a Belgian corporation in which 28% of the shares were owned by the Congolese state. It held 47 concessions covering an area of 10,000 square km. In 1982, President Mobutu liberalised the Congolese mining sector, but with the economic crisis of the 1980s only gold-mining remained profitable. Other concessions closed down, leaving room for the artisanal miners. In the early 2000s, the Canadian company BANRO bought out SOMINKI's private shares, so becoming the only extractives company active in the Kivus. Since October 2011, BANRO has worked the Twangiza gold deposit and has three other operating permits. However, although BANRO is the only company actually exploiting minerals, hundreds of exploration permits are owned by various mining companies, mainly foreign.

The combination of the liberalisation of the mining sector, the level of unemployment in the industry after the first war of 1996-1997 and the coltan[6] boom of the years 1999-2000 explains the current artisanal mining model. Moreover, the Kivu territories are isolated because of the lack of roads and power lines, which makes industrial exploitation particularly complex. The number of artisanal miners in each Kivu province is currently estimated at 200,000 –so a total of 400,000.

Successive UN reports highlight the fact that, since the war of 1996, various national and foreign armed groups are financed by the illegal exploitation of the Kivus' geological resources. The presence of the military has degraded the working conditions and living standards of the artisans and helps maintain the conflict suffered by the local population, given the Kinshasa government's failure to restore peace in the area. The fate of Congolese women reflected in the testimony that begins this booklet is bound, therefore, to this model of mining controlled by armed groups.

3.2.2. The situation of artisanal miners

Artisanal and small scale mining (ASM) is widespread in developing countries. This sector employs nearly 13 million artisans and provides a livelihood worldwide to 100 million people. About 80% of this ASM is done informally, including by women and children, in conditions harmful to health and safety. Nevertheless, ASM has a critical role in reducing poverty, augmenting community capital and diversifying the economy in many developing regions: it is viable in areas with minimal infrastructure where industrial mining would be impossible

In the DRC, artisanal miners constitute the largest segment of the mining sector. It is estimated that there are between 1 and 2 million artisans, with an average of 4 or 5 people dependent on each miner, so that between 4 and 10 million Congolese depend for survival on this activity.

The artisanal miners in the DRC form a sociologically heterogeneous group comprising young adults (such as Adon Kalenga) who interrupt their studies for lack of money, farmers who are landless because of conflict or population pressure, teachers who return to the sector because their pay is too low to provide for their families, demobilised soldiers, and so on. Women do not usually dig, but they travel round the mining areas cleaning and refining the minerals or supporting the miners through food preparation, etc.

This activity, which is done part time or full time, poses serious challenges for the life of the workers: problems of health and safety at work; the transmission of communicable diseases; uncertainty about their rights to extract the minerals; harassment and financial abuses by government officials, armed groups or middlemen; expulsion from the mines by private companies which legally acquire the concession; child labour or forced labour; illegal trading that deprives the state of revenue; generation for the state and deficiencies in environmental protection.

The monetary gain to the miners is immediate, but it is random and precarious. It is estimated that in the DRC the pay varies from 1 to 2 dollars on average, and the money is often wasted, not conveniently saved. The mines are usually far from urban centres, so that the cost of living is higher than elsewhere. Moreover, the artisans live alone and spend significant sums on alcohol, prostitution and the support of a second family. It is therefore a survival economy, with the probable poverty trap of going into debt during the rainy season: all factors that increase the difficulty of the work and the health risk linked to poor conditions.

All this being said, there are few alternatives to artisanal mining, given the lack of alternative jobs with decent wages. This artisanal activity therefore constitutes the last social barrier against people's falling into in absolute poverty, and yet does not offer future prospects. What is more, in the Kivus the military or paramilitary presence harms the artisans in various ways: illegal taxes on production and marketing, protection money for the deposits themselves, or even forced labour. However, today it is generally considered that the funding sources of the Rwandese Hutu guerrilla, the FDLR (Democratic Liberation Force of Rwanda, which operates in the region of Lake Kivu) does not limit itself to exploiting artisanal miners: on the contrary their activity extends to trading in the whole range of basic products, to the exaction of quasi-taxes, and to the sale of agricultural products. In the absence of a state that guarantees security and is able to link the region with its hinterland, we see a militarisation of the economy of eastern Congo that goes far beyond the extractives sector.

3.2.3. Formalising the artisanal mining sector in eastern DRC

Since the informal activity of artisanal miners has no viable short-term alternative, the way forward is mainly through its formalisation. The initiatives for this formalisation can be grouped in four main categories, different but complementary: the organisation of the artisans; traceability; certification; and due diligence:

– Organising the artisans would be done through assuring the 'semi-mechanisation' of their work, their organisation into cooperatives, through putting in place a system for arbitrating land conflicts; infrastructure development; and the strengthening of civil society.

– Traceability consists of tracking the minerals from their point of extraction, in order to determine the mine of origin and prevent buyers from sourcing their materials from sites controlled, for example, by armed groups. However, this traceability mechanism does not permit the assurance that no extortion takes place between the mine and the point of sale.

– Certification aims to avoid conflicts in the mines, by ensuring respect for compulsory social and environmental standards. The International Conference for the Great Lakes Region (ICGLR) is currently working on the development of a regional certification system including the DRC, Rwanda, Burundi and Uganda.

– Due diligence may be defined as the process by which a company involved in a given supply chain ensures that it does not purchase conflict minerals. The method consists in tracking products from their place of extraction and rests on four pillars: the identification of risks linked to armed groups; strategies to counter these risks; independent audits; and the publication of the measures taken by the company. The commonly standard of 'due diligence' is that of the OECD.

In these efforts to formalise informal mining activity, the role of industrial mining companies is ambiguous, although such companies are able to solve at least some problems successfully. Specifically, the Canadian company BANRO, operating in the Kivu region, had to manage cohabitation with the artisanal miners who operated the concession before the company arrived. Of the 6000 artisanal miners counted at the site, the company has hired 500 for low-grade jobs for a six-month period, after which they will gradually be made redundant. Meanwhile, BANRO plans to finance the creation of small and medium enterprises through providing micro-credit, provided that the companies concerned hire some of the redundant miners. In the case of the presence of artisanal miners in parts of the BANRO concession not currently being worked by the company, the company seems willing to allow a limited number, so long as they observe certain rules. This raises the question of how to limit them to predefined areas, or how to reach an agreement that allows them to mine elsewhere until the industrial exploitation of the company's deposits begins.

3.2.4. A comprehensive attempt: the Dodd-Frank Act

One measure implemented to try to reduce the level of conflict in the Kivus is the USA' 'Dodd-Frank Act', adopted in July 2010 by the U.S. Congress. Indeed, *Dodd-Frank* (officially, the Wall Street Reform and Consumer Protection Act) establishes in section 1502 the obligation of companies registered with the Security Exchange Commission (SEC) of the United States, which use certain minerals, to establish the origin of these minerals. If the minerals come from the DRC or a neighbouring country, companies must then report due diligence measures taken to prevent these minerals from financing conflict.

In reaction to this transatlantic legislation, President Kabila imposed a suspension of trade in minerals deriving from eastern DRC between September 2011 and March 2012, to end the military's involvement in mining. This measure did not have the intended beneficial effect, but caused socio-economic damage on the local population and particularly the artisanal miners, as commercial activity in minerals ceased almost completely for months.

As an unpredictable and dramatic consequence of the USA law, the electronics sector imposed a de facto embargo on minerals from East Congo. Because of doubts about the application of the law, and because of a lack of sufficient resources on the ground to ensure the origin of the minerals, the sector preferred to source itself from countries elsewhere. Therefore, both the legal and the illegal trading of minerals decreased dramatically, to the benefit of foreign smuggling and of other criminal profits of the armed groups. The population lost an important slice of its business, while gaining neither stability nor safety. In addition, initiatives undertaken to enable the traceability and certification of minerals were suspended for lack of buyers of these products. The situation of artisanal miners in the Kivus was, in 2012, more precarious than ever.

In any case, it is clear that mining –formal or informal– is inherently unsustainable in the long term: minerals do not renew themselves. Therefore, it is essential to work in parallel on sectors such as agriculture and tourism, to diversify the economy and open permanent horizons.

3.3. The situation in Katanga

3.3.1. The paternalistic corporate tradition

Katanga occupies the south eastern corner of the country. It has 9 million inhabitants and an area of 518,000 square km, slightly less than the size of France. The province, whose capital is Lubumbashi, contains significant reserves of copper and cobalt: with the north of Zambia it forms part of the so-called copper belt, which has been described as 'a geological scandal' because of the high concentration of the metal in the deposits. Mining in the area has a long tradition, dating back to pre-colonial times. During the Belgian colonial era (1908-1960) the company *Union Minière du Haut Katanga* (UMHK) exploited the copper and cobalt, and provided its workers and the rest of the population with basic private and public goods almost free: housing and urban infrastructure, hospitals, schools, electricity, roads and transport facilities, discount stores for staff, a postal service and radio communications.

In 1967 UMHK became Gécamines (Générale des Carrières et des Mines), a 100% public company which played the same role in Katanga as its predecessor. Gécamines paid taxes and quasi-taxes to administrative agencies or officials, without receiving any useful public good in exchange. A popular Katanga proverb states, in Swahili «Gecamines njo baba, mama njo Gecamines» meaning «Gécamines is my dad, Gécamines is my mom». However, the company found itself in bankruptcy at the beginning of the new millennium: it had been exploited by the government and by armed groups, had ceased production and its paternalistic policies had slowly collapsed. But as the state has not gone on to supply the public goods that Gécamines had provided, the people's expectations were directed to the new mining companies that coming to Katanga under the aegis of the Mining Code of 2002.

We note here a parallel with European industrial history. At the beginning of industrialisation in Europe, also, the great companies were paternalistic, providing many of the needs of their employees and families: over time these functions came to be performed by the state. In contrast, in the DRC, as also in other African countries, this transfer of functions could not be performed, since States did not yet have the capacity to assume them. This factor challenges both African governments and foreign companies operating in their countries.

3.3.2. The issue of mining contracts

In 2011 around 350 private mining companies operated in Katanga, exploiting mainly copper and cobalt. The Mining Code of 2002 provides that any mining company must have a minimum Congolese State shareholding of 5% (through Gécamines, which is nowadays the State mining holding). However, mining contracts are of great complexity: they must specify shareholdings, taxes payable on production (conditional on the levels of production and metal prices), tax exemptions for an initial period of investment, plans for the company's investment in the local community, impact assessments and environmental restoration.

Some of these contracts were signed before 2002, others were modified with the entry of new partners in the companies, and still others were signed entirely subject only to the 2002 Code.[7] However, since the transition to democracy (2002-2006) was politically convulsive, in 2007 the government and Congolese civil society thought it appropriate to open a process of review of the legality of such contracts. This process involved the review of the contracts of the largest mining companies, and ended in 2009 with an extensive report concluding that no contract of those tested was 100% legal: the majority should be substantially renegotiated, and a minority were clearly illegal, so that the concession could be withdrawn and offered to other companies. Although agreement was commonly reached after these renegotiations, in some cases the company has been expelled from the concession, and the exploitation transferred to companies controlled by friends of senior Administration officials.

Gécamines is never the majority shareholder (the minimum stake of 5% never exceeds the 50% of shares), but this State participation has two important roles to play in the firm. First, it determines that part of the wealth generated by the firm that will remain in the DRC, and the part that will migrate to the countries of origin of the foreign shareholders. Multinational accounting firms apply a powerful arsenal of techniques to evade payment of charges in the host countries (taxes, royalties, fees, dividends, etc.) and to divert the majority of payments to tax havens. Second, the contracts influence the company's mode of governing the company through decisions of their Boards of Directors: Gécamines has little say in the decisions that affect how to comply with or evade labour or environmental provisions, or decisions that will determine the quantity and quality of a company's social investments.

The general perception of the people, government officials and NGOs of Katanga on the subject of contracts is that foreign companies pay too little. However, those better informed among authorities and NGOs are aware that technology and foreign investment are needed to exploit the wealth, and that they cannot afford to frighten away foreign capital with constant renegotiations that erode the legal security of the investment. At the end of the day, companies, pressured by shareholders and their leaders in the countries of origin, need to keep a difficult balance: gain profits and avoid problems with the local community.[8]

3.3.3. Business problems in the field

Concerning the mineral deposits, and leaving aside debates about the legality or legitimacy of contracts, other dynamics and problems unfold. The main issues discussed are: the relocation of people displaced by corporate activities, companies' relationship with artisanal miners, the management of infrastructure and of social investment in local communities, environmental concerns, and the existence of perverse alliances that harm the welfare of the population.

Relocation

Preparing the mineral sites for mining, constructing the factories, and the various stages of processing the minerals often require the relocation of part of the local population. In these cases, international law requires that the economic and living conditions of the displaced population, after relocation, are better than before the company's arrival. Here business practices are diverse: some companies (usually the largest) apply these rules thoroughly, consulting local people. Other companies opt for cheaper and faster solutions. The divergent decisions result in homes, villages, schools and clinics / hospitals of varying quality, and in the search for new ways (more or less precarious) for the people affected to earn a living. On this last point, the mining companies resort to various options: they may hire the local population as mine workers; offer a fixed compensation to those who have lost their livelihoods; or offer advice and microcredit for the establishment of small local businesses that might later become suppliers to the company. For instance such small businesses might be sewing workshops from which the company could buy miners' work clothes, or farms to produce food for the workers. As a rule, though, mining companies are unable to offer work for the whole population of the areas where they begin to operate, so generating unrest in communities.

Relocation operations often provoke conflict by generating high expectations which cannot in the event be fulfilled. Foreign companies also come across unforeseen cultural difficulties. For example, the displaced people inside the company Tenke Fungurume Mining experienced a rash of divorces, largely due to rising living standards experienced after relocation.

Relationship with artisanal miners

In Katanga two types of company mine copper and cobalt: the large corporations which own the sites and build processing plants that produce more or less refined copper and cobalt; the small companies that do not own deposits and own just the processing plants. The larger companies relate to the miners on the concession through relocation processes, protecting their concessions from attempts at looting by certain groups of artisans. The smaller companies finance the extraction by the artisanal miners, then have the exclusive right to buy the ore, at a price discounted by the initial loan.

In this second case, two main issues arise. The first is the bargaining power of the artisanal miners in relation to the sale price of the mineral. Sometimes there are mediating structures (small-scale brokers, or carriers, or unions of miners) that render more complex (and often more unjust to the artisans) the artisanal miner-company relationship. The second is the provision by the State of exclusive mining concessions for artisans: but the State prefers to sell concessions to businesses than to lease them to artisanal miners, even though the mining legislation stipulates the need to maintain exclusive sites for artisans. In this sense, the process of reforming the Congolese mining code (launched in 2012) will generate crucial challenges for the future of the artisanal mining sector.

Management of infrastructure and social investment

In general, the different levels of public administration (central, provincial, local) do not guarantee an infrastructure sufficient for mining companies to operate efficiently: the mines must either support the public electricity company (SNEL) or activate electricity generators themselves, must take care of the maintenance of access roads to the mine, supply running water, etc. Business leaders feel that they pay taxes to the state, but in return receive no public services.[9] Therefore, they are forced to invest themselves in the provision of public goods and basic services around the mine. In practice, companies themselves plan and execute such investment, sometimes beneficially for the local population, sometimes less so.

For example, in Ruashi (a district of Lubumbashi, the capital of Katanga), the two major mining companies do not sufficiently coordinate with the local authority to ensure that the water supply reaches beyond their premises to the general population. This issue manifests the cultural clash between, on the one hand, the paternalistic mentality of the population and the local authorities, and on the other, the liberal business mentality according to which the liability of the company is to pay its taxes so that the Administration provide public goods and services.

Environmental problems

The mining industry is heavily polluting. Specifically, the technologies of both the extraction and the processing of copper and cobalt include mechanical, chemical, electrical or thermal processes, generating smoke, solid waste and liquid contaminants. The more responsible mining companies use smoke filters and watertight tanks or ponds, to eliminate or reduce the environmental impact. Other companies, less responsible, discharge these various residues into the air, water or soil. For example, one mining company in a district of Lubumbashi has been repeatedly accused by NGOs and the Congolese Green Party of discharging chemicals into soil and water, contaminating aquifers and the area's agricultural production. However, some complaints fall on deaf ears because of the lack of response from public officials who get paid off for their inactivity.

Vicious Alliances

In the managing of these problems we have observed the roots of certain damaging short-term alliances. For example, sometimes members of the administration team up with local NGOs to blame companies (especially if they are foreign-owned) of social evils for which government itself is directly responsible, or of harmful act that in truth were not committed by the companies. Other times, the company may ally itself with administration officials to hide damaging corporate actions or to deny basic rights to the local population. In this sense, the malfunction of rule of law (by judges and by officials) perverts the dynamics of relations between business, local government and civil society, which last cannot fulfil its role as counterweight.

4. CONCLUSION

After analysis of the complex political and economic realities that contextualise the operation of the King Leopold's Mines, it is time to draw conclusions. We begin by looking back at the people who have introduced us in this reality: abused women in the area of Lake Kivu and the young Adon Kalenga, an artisanal miner in Katanga.

With eyes fixed on them, our twin question in beginning this concluding section is the following: what are the key elements of the situation we have analysed? What can the various actors (companies, military personnel, politicians and the suffering population itself) do, so that all Congolese, especially those who suffer, may live a more human life? Or, putting the question in a way that points up a central paradox of the DRC: How to ensure, through efficient operation and through sharing mining profits more justly, that a country so rich in resources, (the 'geological scandal') will cease to count among the poorest in the world?

We have conveyed the complex challenges facing the Congolese mining sector: either in a relatively stable province (Katanga), or in a region subject to armed conflict (the region of Lake Kivu). These challenges must be examined in the intersection of politics, economy and society. We will try to illustrate how these three fields (politics, economy, society) could sustain an extractive activity that, in the long term and taking into account the inevitable end of mining activity, can really promote the development of the Congolese state and the welfare of its people.

4.1. Politics

From a political perspective, the numerous difficulties encountered by Congolese society as a whole, beyond the mining sector, refer to the lack of proper operation of the Congolese state. The extractive sector is sometimes presented as the crucible of the corruption or conflicts of the East. Yet it is also true that the sector's performance results from the failure of rule of law. As we saw in Chapter 2 the state apparatus is hamstrung by a shoestring budget, and is hampered by the vastness of its territory and its low population density. If the state could fulfil its role effectively, then the situation of the mining sector would also improve.

This role is specified in assuring the people's security by reforming the army and police, by fighting corruption at all levels of power, by administering a fair and effective system of justice (that is, by reforming poor governance), and by providing an infrastructure adequate for economic development. A comprehensive approach to this set of problems is essential.

Indeed, to establish a better framework for mining and to stabilise the East will not of itself resolve the entire cluster of challenges facing the Congolese State: it requires a democratic state ruled by law that might continuously develop, and it requires that the mining industry places itself at the service of the people.[10] From this viewpoint, it is necessary to diversify the Congolese economy, which is currently based essentially on underground wealth: non-renewable natural wealth. We must ensure that an increased share of these minerals is processed within the country, and develop other sectors such as tourism, agriculture and the food industry (breweries, sugar). It is estimated that current mineral deposits have a life expectancy of less than 100 years, and it is thus urgent to broaden the country's economic base. This policy would require a medium and long-term political vision different from that of immediate maximum profit. It would require active policies and incentives so that the people do not wager everything on the mining sector; so that Adon Kalenga can return to school and build a future beyond the mine; that those who should be teaching need not leave the classroom and go with Adon to the mine because they can earn more money there than by teaching; that farmers can produce the food that Katanga currently has to import because mining is more profitable than working the land.

The international community, in turn, needs to support the Congolese State, mainly through the reform of the security sector. The overall vision of the International Community of the Great Lakes Region (ICGLR) is very important, because it permits the coherent consideration of economic and military issues beyond those that exclusively concern the DRC.

4.2. The Economy

4.2.1. In the region of Lake Kivu

From an economic standpoint, it should be noted that the mere international boycott of 'blood minerals' from the Kivus is hardly likely to lead to increased security and political stability: as we have shown above, the region's armed groups are not weakened by the boycott because they fund themselves by extorting money across every productive sector, not from the artisanal mining sector alone. Instead, it seems more relevant to modify the mining sector's contribution to national development through the formalising of the activity of artisanal mining.

As a matter of fact, the current review of the 2002 Mining Code offers an opportunity to consolidate and formalise this activity in the DRC. A middle class hardly exists in this region, but recognition of the socio-economic role of the artisanal miners could fill the gap. The development of the artisanal miners is possible if they are provided with a legal status, a legal framework for land use, organisational structures, training materials, infrastructure that ends their isolation and permits trade. At the same time, traceability, certification and due diligence must be promoted. There already exist in the field norms at the national, regional and international levels (respectively the Mining Code, the ICGLR, and 'Dodd-Frank' plus the UN): the difficulty is to implement the norms and to punish transgressions. Here regional and international initiatives make sense in the face of a globalised economy, though they raise questions concerning consistency between the different levels of government.

It would be possible to contribute to the development of an activity that enables people to live decently from their work, by measures such as the following: restoring confidence in the buyers of Congolese minerals; providing local government with the means of implementing due diligence procedures, of classifying mineral deposits based on the actual conditions of extraction, and of verifying the origin of goods and the absence of links with armed conflict.

The support of the international community is crucial in this respect, since it can influence the behaviour not only of those multinational companies that extract Congolese minerals, but also of those that source minerals from the DRC. In this sense, 'Dodd-Frank' is a recent example of the need to address the challenges of the mining industry in a global perspective, avoiding imposing negative effects on the population and foreseeing measures that complement legislation. It seems appropriate to involve local civil society to reflect on these projects, so as to capture better the complex realities that can be difficult for foreigners to understand.

4.2.2. In the province of Katanga

In Katanga, issues of security are less pressing. The problem here centres on the dysfunctions that occur because of the recent influx of private firms and the lack of an inclusive and open dialogue between such firms, government and civil society, including NGOs. Unfortunately, rather than an inclusive and open dialogue perverse alliances are being developed, as we have noted above. To identify any one sector as the only culprit would be wrong, for several reasons: because of the number of companies and the wide range of their ethical practice; because of different levels of understanding and of honesty among the NGOs operating in the field of extractive industries and human rights; and because of the dysfunctions of the young Congolese democracy manifest in its decentralised administration (the central government in Kinshasa, the Lubumbashi provincial government, local governments near to each mine). Thus, to find solutions to problems that arise, each of these three social sectors (firms, governments, NGOs) must address its own internal challenges while promoting opportunities for dialogue with the other two.

First, and among the companies, they must promote social responsibility, both individually and in the mining sector as a whole. Specifically, companies could develop infrastructures for their own business, but which also serve the broader economy and society (roads, water, electricity, etc.). They can also promote economic activities linked to mining that add value locally, before export, to mining products (e.g., plants to process copper into electric wiring) and promote other activities that will survive once mineral reserves are depleted. Finally, they can be aware that their role is not to replace the State in the territory (as big business had done in colonial and immediate post-colonial times) but to support the state (thus paying fair taxes) so that the State can exercise its proper functions and promote the common good.

In relations between enterprises and government, the difficulties are more judicial than legislative. There is a reasonably acceptable mining code, but its implementation is inadequate because of defects in the administration of justice. That is why, as an alternative, the states of origin of the foreign mining companies operating in the DRC should provide mandatory legislation and extra-territorial legal powers, ensuring respect for the rights of local people in face of the companies. In this direction, it is clearly important to support and improve the U.S. Dodd-Frank law on mining transparency and conflict minerals. This law has the merit of existing and it has begun to inspire other legislatures: its shortcoming is that only articulates measures of control, without providing support to the mining sector, to Congolese artisanal miners, or to the Congolese State. The European Union is studying a similar initiative. However, one must note that most companies currently active in the DRC come from emerging economies where there are no such laws. It is therefore necessary to maintain support for the rule of law within the DRC and also for regional and international laws.

Second, a reform of the administration (at central, provincial and local levels) and the strengthening of its functions as the guarantor of the law would help prevent and correct the abuses committed by irresponsible companies engaged in the mineral extraction. These abuses may concern the environment, employment, or the promotion of broader economic development (which implies treating artisanal miners better). Effective use of tax revenue by the administration would make taxes more acceptable to business, and would facilitate the renegotiation of mining contracts on terms more favourable to the Congolese state.

Third, NGOs should improve their coordination to constitute intelligent partners of both business and the public administration in solving common problems. In some cases there needs to be a reform of NGOs that try to finance themselves from the corporations instead of finding solutions.

Taken together, the way of these reforms within each sector should be compatible with an inter sector dialogue focused on issues that affect single companies (such as toxic spills in rivers); certain populations where more than one company operates (e.g., the coordination between neighbouring companies of social investment in the territory they share); or the entire province of Katanga (e.g., the coordination of companies, NGOs and government, in the implementation of provincial development plans in matters such as transport infrastructure).

4.3. Society

From the societal perspective, it is interesting to study the role that civil society plays today in the economic and political development of the DRC. Civil society traditionally has a key role as a counter-balancing force, as when the press, for example, analyses and questions political decisions. In the Congo, the press is the essential link between the ruling elite and the population to enable democracy to flourish. Civil society further strengthens and sustains local communities and artisanal miners that coexist with mining corporations.

After contributing to the revision of mining contracts (2007-2009), Congolese civil society has mobilised to influence the review of the Mining Code of 2002, so that it takes into account the need to formalise the artisanal mining sector, and better defends the miners' right over against multinationals, as well as against the vested interests of certain officials and politicians. Here there is a striking variation of public opinion between the provinces. For instance, the capital Kinshasa gains more from the taxes paid by the companies than from those paid by poor artisanal miners; it therefore tends to favour industrial mining. In contrast, the Kivu region (with most of the artisanal sector) promotes the recognition of artisanal mining within the Congolese economy.[11] In any case, the consensus within civil society and the NGOs should originate at provincial level and then be elevated to the national level, in order to define a common position in front of the central government, which is responsible for legislative reform.

Certainly, despite its disparities, Congolese civil society may be described as dynamic and effective. However, the important presence of international civil society (global NGOs), especially in the Kivus, is noteworthy. There is a suspicion that this global presence displaces or even castrates Congolese civil society. In fact, neo-colonialist attitudes persist not only amidst multinational companies or international government agencies, but also in the NGO sector. Therefore international civil society needs to be cautious in conducting dialogue between global and local values. International NGOs should establish dialogue to identify priorities for action at the Congolese level and transfer appropriate technologies that serve these priorities.

4.4. What of us, the citizens of rich countries?

Naturally, the Congolese are the main actors in the process of local change, but in the context of an economy, a society and a politics marked by globalisation, they are not the only ones responsible. For example, most DRC minerals are used in the rich countries to make electrical wiring, batteries, gold jewellery, mobile phones, consoles and computers. That is why it is right to ask: what can we do, as citizens of rich countries?

To answer this question we consider possible action in three arenas: as participants in the market, as members of civil society, and as members of the political community.

But before sketching possible actions in these three fields, we need to show that actually to help the women of Kivu, or Adon Kalenga, one needs to be not only well-intentioned but well-informed. Action from a distance is even more complex than local action: between us and them there are several connections that can bring about consequences there contrary to those sought here.

For example, if we believe we can reduce the power of armed groups operating in the Kivu by boycotting those companies that buy minerals extracted by artisanal miners, we are wrong: boycotts do not choke the finances of armed groups, but empower them. It is the artisanal miners whose livelihood is strangled, who may then become desperate and swell the ranks of the armed groups. This is not to say that complexity, and the possibility of preverse action, should paralyse us. Rather we need to be intelligent, and to engage with intelligent organisations. Ignorance is dangerous.

4.4.1. Participants in markets

On the basis of the data and processes we have discussed in this essay, we believe that responsible consumers practising solidarity ought not to demand that companies buying minerals from the DRC instantly abandon their connections with 'blood minerals'. It is far better to press these companies to verify (through due diligence procedures) that the conditions of the minerals trade are changing: so that the artisanal miners and honest traders can retain a higher proportion of the minerals' added value. The process of change is slow and complex, and requires continuous action by the companies, in partnership with other stakeholders (NGOs, governments, international organisations). That is why a responsible consumer, in solidarity, should be wary of companies that offer definitive and seemingly instantaneous solutions («We don't buy minerals from these regions») and instead, support and monitor companies that have open collaborative processes to seek change on the ground («We are involved in a dialogue with local miners, NGOs and governments to implement traceability and transparency processes.»).

More generally, responsible consumption can change irresponsible business practice: when we buy, we can exercise the right to ask, «Where does the coltan come from in this mobile phone or this computer?»; «Is the diamond in this ring certified not to finance armed groups?». If we ask such questions collectively, there will come a day when companies will be required to provide explanations and to take action: as there already exist labels for 'Fair trade' (Fair Trade), there could be labels 'Conflict free', or 'Produced from materials recycled locally'. Already, some companies offer wedding rings certified as to the origin of their precious minerals.

Beyond such questioning, we can inform people in our own circles about those companies that manifest good practice: this creates incentives for these companies and encourages the less responsible to follow the example.

Also we commonly participate in another market with the power to bring about change –the savings market. Maybe we have our savings in a pension plan, in a mutual fund, or in a commercial bank. All this money we put in the hands of managers who then invest in companies of various kinds. Again, ignorance is dangerous. Again, we can ask in what kind of companies our savings managers invest. If appropriate, we can change our investments' managers, because there exist pension funds and mutual funds that are socially responsible: this is, funds that respect certain values (they do not invest in gaming companies, arms manufacturers, etc.) or that positively promote good causes (social enterprise investment, micro-credit, etc.).

4.4.2. Members of Civil Society

The steps we have just proposed are complex, and therefore are not always convenient or effective as individual actions. It is at this point where civil society organisations (consumer organisations, development NGOs, etc.) come in: we can support them, take information and analysis from them.

The complexity of this field likewise invites our caution and our intelligence. We might hardly trust those NGOs that promise instant solutions or voice Manichean prescriptions («The bad guys are the government» or «The bad guys are the companies»), since the processes of change in developing countries like the DRC are slow and require inter sector commitments that cannot go together with a Manichean approach. It is good to support NGOs which understand the complexity of economic processes, which dialogue with responsible social actors, and who avoid falling into neo colonialism by entrusting negotiation to responsible local leaders. In our own field visits, we met international NGOs operating in Katanga and whose directors are well-trained Congolese, with a deep knowledge of the reality of their country, and with a sincere desire to improve the situation. Such NGOs should be given support from rich countries.

4.4.3. Members of the political community

We also have power as members of the political community. We can vote or get involved in a political party to support legislative initiatives that promote raw material traceability, certification and due diligence. On issues affecting developing countries such as the DRC, we need to be especially active and well informed, because citizens' ignorance on these issues readily translates into lack of appropriate pressure on politicians, and leaves free the hands of multinational corporations which are not always socially responsible.

More generally, the sphere of international cooperation requires information and training. To ignore the general framework of an authentic international cooperation for development is to end by leaving such policies in the hands of those politicians or companies which sell arms or useless products to developing countries under the banner of cooperation. It seems to us highly important to note that many problems of poor countries derive from unjust international relations. We ought not to forget that progress in reducing EU tariffs on agricultural products from emerging countries is far more valuable to those countries than many technical cooperation projects or the well-intentioned actions of paternalist NGO.

Finally, we recall that problems such as we have outlined in this booklet are adjudicated at the European Parliament or the European Commission: for example, the regulation of European enterprises that operate in developing countries. That is why the European dimension of our political activism becomes ever more important.

In summary: wearing our three hats as consumers/investors, members of civil society and members of the political community, we have more individual and collective power than we may imagine. Exercising this with good will and with intelligence, supported by credible organisations, we will change external realities as we change our own mindset. It is inside every one of us that we find the root of our actions, of a beneficent and effective decision to help change the lives of people like the women of Eastern DRC or of the young artisan miner in Katanga, Adon Kalenga.

NOTES

1. A newsletter «La guerre vécue par les femmes» circulated on the Internet in the form of e-mail in June 2006.
2. http://www.bloomberg.com/apps/news?pid=20601081&sid=aW8xVLQ4Xhr8 (accessed June 5, 2012).
3. For this section, the main source is J. F. Mària, «De la guerra a la democracia: la República Democrática del Congo», *Revista de Fomento Social*, no. 238, vol. 60, Córdoba, 2005, pp. 283-312.
4. The population density in DRC in 2011 was 29.3 inhabitants per square km: a very low figure, which prevents the military and government from effectively controlling the whole territory or ensuring its development. The high density of its eastern neighbours (Rwanda, about 200 inhabitants per square Km; Burundi, about 150; and Uganda, about 60) turns northeastern DRC, rich in minerals, into a coveted prize. Its low urban, economic and educational levels also hinder peace and development.
5. For a detailed description of the facts and partnerships related to this period, see J. Casòliba and J. Carrero, *África de los Grandes Lagos: diez años de sufirmineto, destrucción y muerte*, *Barcelona,* Cristianisme i Justícia, Quadern 95 (2000).
6. This mineral, primarily used in computers and mobile phones, was sold at that time at $350, per kilo. Given the low cost of Congolese coltan artisanal production and its high concentration of tantalum ore, it is in high demand on the global market.
7. Among the contracts signed before 2002 a significant portion was signed during the 1996-97 conflict, between foreign firms and Laurent Kabila as a future president. Kabila father had need of funds to finance his troops and defeat Mobutu. Therefore, the terms of these contracts were grossly disadvantageous to the Congolese state.
8. The reference to shareholders connects the enterprise with global problems, seemingly distant from the DRC but that end up influencing the companies operating on Congolese territory: problems such as the various forms of raising funds to invest in mining projects, or mergers and acquisitions of various parent companies which operate on Congolese territory.
9. Katanga Mining companies complain about the lack of investment funding by both provincial and local government: in fact, the taxes paid by the companies to the central government in Kinshasa ought to be distributed between the three administrative levels in the following proportion: central administration 60%; Katanga provincial administration 25%; local government: 15%. Yet central government retains 100% of the taxes.
10. We cannot forget that the consolidation of the rule of law is a long-term process, and that the independence of the DRC is relatively recent. Moreover, this independence was poorly preparing over the last years of colonial power. Today Congolese democracy is imperfect, but many people are working to improve it.
11. Tensions between artisanal and industrial mining reflect typical problems of industrialisation, or industrial restructuring: such processes bring to bear technologies that that make many workers redundant whilst increasing corporate productivity. In the case of the DRC, several authors argue the compatibility, and even the complementary, of formalised artisanal mining (as we have described in the Kivus) and industrial mining represented by large companies (usually multinational).

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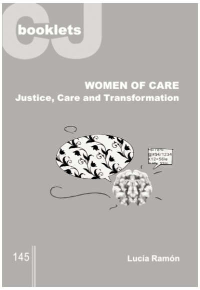

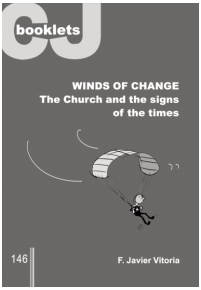

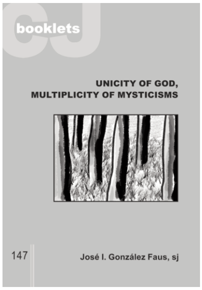

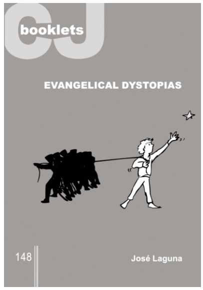

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