

Human Rights of the Coltan Miners in the Democratic Republic of Congo



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Executive Summary

Coltan is a rare mineral which is mined, both legally and illegally, at Congolese dig sites at the expense of the wellbeing of coltan miners. This dissertation provides an understanding on the living and working conditions of the Congolese coltan miners and the relation of coltan to armed conflict in the Democratic Republic of Congo (DRC). Furthermore, the role of the UN and international community in the wellbeing of Congolese coltan miners will be analyzed. The main research method for this dissertation was documentary analysis on various sources, including UN treaties and laws, Congolese policy documents, NGO research reports and historical literature.

The DRC contains rich ores of gold, tungsten, tin and coltan in the Kivu and Katanga provinces. While not exclusive to the DRC, mining coltan in the DRC is the least expensive method. During the First and Second Congo War, Rwandan armed forces annexed Congolese artisanal coltan mines and sold it illegally on the international market. Illegal trade funded Rwandan armed forces and their battle in Congo. As for the current Kivu Conflict, Rwandan rebels and corrupt Congolese soldiers fight for control of coltan mines and force Congolese civilians into labor at artisanal mines. While human rights NGO's argue that coltan was the main reason for conflict in the DRC and the primary mineral sold by rebels, this appears not to be the case. Gold has become more valuable in recent years and corruption and political instability in the Congolese government are the primary reasons for armed conflict.

Artisanal coltan miners work and live under extreme circumstances and are exposed to hazardous environments, sexual harassment, violence and long working hours. However, these circumstances are not exclusive to illegal coltan mines as Canadian and Chinese mining companies have been reported of violating the rights of miners. These companies ignore various international human rights laws and treaties ratified by the UN and the DRC. Furthermore, Chinese refineries are purposely mixing illegal and legal coltan before selling it to international electronics manufacturers. The DRC government is aware of this matter and issued the unsuccessful Mining Ban and Mining Code, which were to eradicate illegal mining and human rights violations. Due to lack of staff, funds and corruption, the DRC government is unable to end the conflict and violations.

The UN currently holds a military presence as part of a peace keeping mission which failed to ensure stability in the DRC and the protection of human rights. Furthermore other nations such as the U.S. have implemented voluntary mineral laws which are to monitor companies on the use of illegal coltan. Due to it being voluntary, companies cannot be prosecuted for selling illegal coltan. This has resulted in an ineffective contribution by the UN and international community as the need for a juridical international human rights law is required to ban illegal coltan. As for the Congolese miners, the UN together with the international community is to aid DRC government in stabilization before it is able to combat the ongoing conflict and improve the living and working conditions of coltan miners.

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List of Abbreviations

3T	Common conflict minerals: tin, tungsten, tantalum (coltan) and gold
ACTA	Alien Tort Claim Act
AFDL	Alliance des Forces Démocratiques pour la Libération du Congo
CCPR	International Covenant on Civil and Political Rights
CEDAW	United Nations Convention of Elimination of All Forms of Discrimination Against Women
CNDP	Congr�s National pour la D�fense du Peuple
CNL	Conseil National de Lib�ration
CPI	Corruption Perceptions Index
DRC	Democratic Republic of Congo
DRCRSDA	Democratic Republic of Congo Relief, Security and Democracy Promotion Act
EU	European Union
FAC	Forces Arm�es Congolaises
FAR	Rwandan Armed Forces
FARDC	Forces Arm�es de la R�publique D�mocratique du Congo
FAZ	Forces Arm�es Za�roises
FDLR	Forces D�mocratiques de Lib�ration du Rwanda
GBV	Gender Based Violence
GDP	Gross Domestic Product
GNI	Gross National Income
HCSS	The Hague Centre for Strategic Studies (HCSS),

ICC	International Criminal Court
ILO	International Labor Organization Declaration on Fundamental Principles and Rights
ITRI	International Tin Research Institute
MLC	Mouvement de Libération du Congo
MONUC	United Nations Mission in the Democratic Republic of Congo
MONUSCO	United Nations Organization Stabilization Mission in the Democratic Republic of Congo
NGO	Non-governmental organization
OECD	Organization for Economic Co-operation and Development
RCD	Rassemblement Congolais pour la Démocratie
RPF	Rwandan Patriotic Front
U.S.	United States (of America)
UK	United Kingdom
UN	United Nations
VPSHR or VP	Voluntary Principles on Security and Human Rights

I. Introduction

On May 3, 2001, the United Nations (UN) Security Council published a report on the condemnation of illegal exploitation of coltan and other natural resources in the Democratic Republic of Congo (DRC). In the report, the UN elaborates on their findings on the illegal trade of mining minerals in the DRC, such as coltan, the connection with Congo-based armed rebels and the poor living and working conditions of Congolese coltan miners. The latter has been targeted by non-governmental human rights organizations, such as Amnesty International, who try to raise global awareness for the Congolese coltan miners and the use of illegal coltan in modern day electronics (2013).

In this dissertation, the living and working conditions of Congolese coltan miners and the human rights violations related to these conditions will be researched. Furthermore, the role of the international community and, more specifically, the UN in relation to Congolese coltan miners and illegal coltan trade will be analyzed. Therefore, the following research question is to be answered: ‘How can the United Nations improve the living and working conditions of coltan miners in the Democratic Republic of Congo?’ According to The Hague Center for Strategic Studies (2013), 500.000 Congolese coltan miners work with artisanal methods such as shovels, pickaxes and bare hands to uncover the high value minerals. Coltan is a very valuable and rare mineral, which is used as an essential electric-conductor in modern electronics, such as mobile phones and laptops. This is why armed forces during the First (1996-1997) and Second Congo War (1998-2003) have been known to exploit coltan mines and miners in order to finance their cause. During both wars, Rwandan and Ugandan armed forces annexed coltan mines in the Kivu and Katanga provinces, and smuggled the minerals illegally to their respective countries before selling it on the global market (Stearns, 2011, p. 40). As for the current Kivu Conflict (2004), the same forms of coltan exploitation apply, although the Congolese Army is heavily involved as it controls the majority of artisanal mines in the provinces North and South Kivu. At these mines armed forces are known to force civilians into labor and also expose the miners to discrimination, violence and, for women, rape. Chapter Two will further examine the illegal trade of coltan during these conflicts. This dissertation does not only cover the artisanal coltan mines that are controlled by armed forces, but also the mines of international Chinese and Canadian mineral extraction companies in the Katanga province are researched for violations of international human rights treaties, such as the United Nations International Labor (ILO) Organization Declaration on Fundamental Principles and Rights at Work of 1998, more commonly referred to as the ILO Declaration (ILO.org, About, 2010). The ILO Declaration covers the safety of workers on an international level. Chapter Three will examine and research the most prominent Chinese and Canadian mining companies in the DRC, as they are the most conspicuous international mining companies currently active in the DRC. Furthermore, Chapter Three will elaborate on the international

laws and treaties that have been violated by the international mining companies and the armed forces in the DRC, concerning the human rights of coltan miners.

The content of this dissertation is divided into four chapters. In the first chapter, the historical background of the DRC is discussed, as it is important to know how the DRC has come to such a conflict. The chapter further provides information on the economical fluctuations since the 1960s (independence from Belgium), an overview on the natural resources (i.e. coltan and gold) of the DRC and its estimated value. Furthermore, it will discuss the First Congo War, Second Congo War and the Kivu Conflict as they provide a historical background for the current situation in the DRC (Ma, 2014, p. 2). The final segment explains the rise of corruption within the Congolese government by assessing the corruption levels which have been reported by the Transparency International. They have been measuring levels of exploitation with the Corruption Perceptions Index, by examining the reports and interviews of civilians on corruption (TI Overview, 2014, p. 11).

The second chapter will provide an overview on the uses of coltan in the global mining industry, by examining the coltan mines and industries of other countries: Canada, China, Thailand, Venezuela, Brazil, United States and Australia (USGS 2012, p. 162). Furthermore, the second part of the chapter will be devoted to the mining industry in the DRC. It will explore the coltan booms of 2001 and 2010, which were ignited by high demand for smart phones and videogame consoles, and the illegal trade of Congolese coltan in Rwanda in an attempt to evade taxes imposed by the Congolese government on mining minerals. Also the role of coltan in the Congo Wars and the Kivu Conflict is discussed. NGO's such as War Child have stated that the use of coltan is the main reason conflict in the DRC occurs, as it finances illegal armed groups such as the Mai-Mai (War Child, 2015).

Chapter Three will shift its focus to the violations of human rights, which are the result of bad working and living conditions for coltan miners. Firstly, a description will be given of the coltan mines owned by armed rebels FDLR, M23 and the Mai-Mai. These groups are known to force villagers in the Kivu provinces to work in artisanal coltan mines, which exposes them to sexual violence, torture and imprisonment. The Congolese Army is associated with the same violations as corrupt soldiers force children to work in artisanal coltan mines (HCSS, 2013, p. 38-39). The human rights laws that are applicable to the abuse of rebels and soldiers are as follows: *International Covenant on Civil and Political Rights of 1966*, *the UN Convention of Elimination of All Forms of Discrimination Against Women* and *the UN Convention on the Rights of the Child of 1973*. The articles of these treaties and conventions are outlined and discussed in Chapter Three. Furthermore, the working conditions of coltan miners in Chinese and Canadian mining companies are examined as they cover 80 percent and 20 percent of the private mining corporations in the Katanga province. These private mining companies have been known for violating human rights such as equal treatment of foreign employees

and creating a safe working environment for coltan miners. These violations are discussed in the following human rights treaty and shall be elaborated on: *International Labor Organization Declaration on Fundamental Principles and Rights at Work of 1998*. Finally, the efforts on trying to get control over the mining sector are discussed with the Congolese Mining Code of 2002 (which established the laws concerning the mining of coltan in the DRC) and the Mining Ban of 2010 on artisanal mining (which was established for only six months in which the Congolese Army gained control over most of the artisanal mines). (DRC Mining Code, 2002, art. 112).

In the final chapter, the efforts made by the international community to limit the use of illegal minerals from countries of conflict, such as the DRC, will be addressed. Firstly, the UN peace keeping mission, MONUSCO, is explained and examined as it is a massive military force of 22.000, currently active in the DRC. Their tasks include observing the fighting armed groups and the potential human rights abuses (UN Security Council Resolution 1925, 2010, p. 2). Secondly, the UN iTSCi Programme certification scheme is discussed, which was developed to certify conflict-free minerals, that originate from countries of conflict, in an attempt to minimize the amount of illegal conflict minerals on the international market (Bieri, 2010 p. 51). Furthermore, the United States (U.S.) introduced the Dodd-Frank Act by President Barack Obama in 2010 and is discussed. The Dodd-Frank Act is an attempt to reduce the use of conflict minerals on the global market. If successful, it would lead to reducing the intensity of armed conflict in countries such, as the DRC, by mandatorily enforcing this Act on U.S. companies. The Dodd-Frank Act will also be compared to other legislations such as the *Voluntary Principles on Security and Human Rights* and the *Democratic Republic of Congo Relief, Security and Democracy Promotion Act* (HCSS, 2013 p. 79). Finally, assumed plans for the introduction of a European Union mineral treaty are outlined.

This dissertation is organized in such a manner that the reasons and causes of the current working and living conditions of Congolese coltan miners, as laid down in Chapter One, are examined in order to get a clear perspective on how the international community can be of help. The specific international human rights treaties and Congolese laws, that are outlined in Chapter Three, highlight the violations that are committed against the Congolese miners by international companies and armed forces, indicating that the violations are not only made by militia, but also the international business sector. Attempts made by the international communities, nations such as the U.S. and alliances such as the UN, as mentioned in Chapter Four, to improve the conditions of artisanal coltan miners in the DRC and to eradicate illegal mining minerals on the global market highlight the scale and worldwide impact of coltan on politics and consumers. By reading this dissertation, an overview on the violations of human rights in favor for a consumable mineral on an international level is presented, making it an interesting study for not only students of European Studies, but to any scholar concerned with human rights.

II. Methodology

This dissertation is divided into four chapters. The overall aim is to research the living conditions of coltan miners in the Democratic Republic of Congo (DRC), the role of the Congolese government and the international community and how they can improve their methods of aid for the coltan miners.

In the first chapter, an overview is given on the demographics, geography, economy, post-colonial conflicts, weak state institutions and the corruption levels of the DRC. This will clarify the current situation of the DRC in relation to the abuse of human rights and coltan miners, and how weak political state institutions came into being in the DRC. The method of research for this chapter was focused on desk research, where most of the references were based on data and information by a report of The Hague Centre for Strategic Studies (HCSS), '*Coltan, Congo & Conflict*', published in 2013. In this report, a detailed background chapter on the post-colonial conflicts of the Congo was provided, which was not only informative, but also trustworthy due to the sources the chapter refers to. Most of these resources refer to United Nations reports and scholar studies, which have been published in various languages and are accessible to the general public. The HCSS report also provided information on the economic development of the DRC since its independence from Belgium, up to 2013. To fill in the remaining two years, up to 2015, the international statistics website Index Mundi, which cooperates with the World Bank statistics organization, provided the most current information on the DRC's economic status, such as the gross national income and economic growth. Transparency International provided valuable information on corruption and weak state institutions in the research report '*Overview of Corruption and Anti-Corruption in the DRC*' of 2014, in which the levels of political corruption in Congo are presented and elaborated on. As for the population of the DRC, Chapter One presents background information on matters such as fertility rate and death ratios but also ethnicity, native languages and population numbers. The chosen research method provided information from sources such as the National Institute for Statistic of Congo, the United Nations Development Programme and the United Nations' *Human Development Report 2015*. The advantages of desk research and documentary analysis are the accessibility to information, as most documents can be found with ease on the internet by specific search terms. This is also applicable to databases such as those provided by The Hague University and the Koninklijke Bibliotheek. A disadvantage to documentary analysis is the amount of time required to read through all journals, books and documents. However, this can be perceived as a learning method, as academic resources do not only provide information, but can also prove to be professional examples on how an academic paper should be presented.

Chapter Two is divided into two sections, focusing on the mining of coltan and coltan ores, and the invaluable importance of coltan in modern technology. In the second section, Chapter Two explains the relation of coltan with recent armed conflicts in the DRC. This dissertation concerns the human

rights of Congolese coltan miners and therefore this chapter presents an overview on the value and influence of coltan on a global scale. Firstly, the chapter provides a description on how coltan is most commonly used for the production of electronic devices. The Costa Rican coltan company, Magma Coltan, sells raw coltan alloys to international production companies and hosts a detailed website, containing information on how coltan is used to produce electronic devices. Magma Coltan's website, provides a document which lists the types of tantalum (coltan) used for building a specific product. For example, tantalum powder enables a company to develop DVD players as the powder can withstand high temperatures and vibrational forces, such as the spinning of a DVD disc. The list provides an overall look on the industrial uses of coltan. The Magma Coltan document is supported by a report of the United States Geological Survey (USGS), the Minerals Yearbook. In this report, the USGS describes the primary uses of coltan in the western industrial sector, listing businesses, products and mining sectors. Both sources were chosen for this dissertation as they are reliable due to their findings, which are based on first-hand experiences, sales figures and governmental records. Secondly, Chapter Two provides an overview of the coltan mining industry in countries other than the DRC. By doing so, the mining of coltan in Congo can be compared to other coltan mining countries and showcase the differences and similarities in production and distribution. For this section, the Mineral Yearbook of the USGS has been a reliable source as well. As mentioned earlier, the USGS has documented the industrial uses of coltan and keeps track of the global mining industry. Specific sources of various countries have also been consulted to point out the cultural and political differences with Congo and the issues that some countries face when mining coltan. In Latin America, few countries have been active in mining coltan. This is pointed out in an academic journal, which has been published by The Wall Street Journal, by Dan Molinski. The journal elaborates on the links between coltan and political instability in Latin American coltan countries. A study by The Center for Public Integrity, conducted through field research, supports Dan Molinski's findings. The study expands on the political issues surrounding the mining of coltan. Region specific reports on coltan mining in Asia, North America and Australia have contributed to this chapter as well. As mentioned earlier in paragraph 1, the report published by the HCSS presents information on the coltan trade in Congo, however their findings also cover the Australian and North American coltan industries and their levels of production and the political impact on domestic and global coltan markets. As for the Asian coltan industry, the non-profit organization Project 2049 researched the coltan trade connection between China and Congo over a course of ten years, publishing their findings in 2015 in '*China and Congo's Coltan Connection*'. The report is a result of field research in Chinese coltan factories, Congolese coltan mines and cooperative work with NGO institutes such as Enough Project and Global Witness. The final result is a comprehensive document with statistical facts, on the coltan trade in China (and other Asian countries), and interesting interviews with individuals who work in the coltan industry. Other objective and reliable sources on the global coltan trade are the annual Mineral

Commodity reports by the USGS. These reports point out specific events and issues in coltan mining countries and how these issues occurred and are to be resolved in order to stabilize their industries. Thirdly, Chapter Two illustrates the influence of coltan mining and trading in the recent Congolese armed conflicts: the Congo Wars and Kivu Conflict. The primary sources for this section are, partially, from the same documents that have been referred to in Chapter One, such as the HCSS report and the UN's Human Development Report. However, these sources mainly provide statistical and industrial information on the uses of coltan and how coltan mines operated during those periods and do not provide significant information on human rights violations in the DRC. Therefore, historical documents, such as the UN Security Council report on *'Illegal Exploitation in the DRC'* of 2001, have been analyzed for this dissertation. The Security Council report is focused on coltan related humanitarian atrocities that occurred during the Congo Wars and how coltan has been a factor in financing armed groups that participated in those wars. As for the Kivu Conflict, the United Nations Security Council Resolution 2053 of 2012 provides background information on the occurrence of the armed conflict, involved armed groups and humanitarian atrocities. However, non-profit organizations such as Enough Project and Amnesty International, published human rights reports and present in-depth research documents, such as in Amnesty International's *'Profits and Loss'* (2013) report, on coltan miners and the coltan trade in the DRC during the current Kivu Conflict. In *'Profits and Loss'*, several researchers visited coltan mines in the Kivu region of Congo and experienced the impact of armed conflict on coltan miners firsthand. The document consists not only of statistics but also interviews with Congolese coltan miners, giving the report a unique perspective from the area of conflict. The advantage of a nonprofit organizational report is the in-depth research and firsthand experience these documents contain. Interviews with coltan miners and industrialists are invaluable to a dissertation on human rights as they provide information from the source. However, a disadvantage with assessing NGO documents is the objectivity of the report, as smaller NGO's might tend to publish information in a form reminiscent of propaganda, promoting their cause, misusing their facts or even lie about certain matters. Therefore, the sources on which these reports rely on require a background check in order for the report to be reliable.

Chapter Three is divided into two sections. The first section of Chapter Three details the Congolese coltan mining workforce and working conditions, while also examining and discussing the most significant human rights violations committed by armed groups and mining companies. Finally, the second part of Chapter Three discusses the involvement of the Congolese government concerning the human rights of coltan miners and efforts of improving the conditions in the artisanal mining sector. Chapter Three presents an overview on Congolese coltan miners, their living and working conditions and the various involved parties the miners work for. During the research for this dissertation, it became evident that a chapter was required to outline the working and living conditions of Congolese

coltan miners. This is because it is important to examine and understand which human rights violations are committed against coltan miners. The chapter starts with a description of the Congolese coltan mining workforce, showcasing an overview on statistics provided by the World Bank in the *'Resources and Resourcefulness'* report of 2015. These statistics are a result of international data collected by the World Bank on an annual basis on the mining industry in the DRC. The information provided by the World Bank presents an industrial overview on the number of coltan miners actively working in the DRC and the percentage of the national income the mineral extraction industry provides for the Congolese government. The results of the World Bank report are substantiated by statements of Strategic Policy Analyst, Mrs. De Ridder of The Hague Center for Strategic Studies who provided additional information during an interview conducted for this dissertation. As a member of the research team for the report *'Coltan, Congo & Conflict'*, De Ridder shared additional and in-depth information on the findings by the HCSS and the link between human rights violations and the coltan industry in the DRC. The interview was conducted in Dutch and a transcript of the interview is added to the appendix of this dissertation (ap. i). Chapter Three continues to examine the workforce of coltan miners in Congo by examining the presence of female miners and child labor. Women are treated unequally when compared to their male counterparts and even though it is considered illegal, child labor still occurs in the DRC. Further information on these two matters are of importance to this dissertation as the unequal treatment of female miners and the presence of child labor are human rights violations according to Congolese and international law, as described by the World Bank in *'Empowering Women in the Mines of the Eastern Democratic Republic of the Congo'* report of April 2015. The report elaborates on the mental and sexual abuse of women who work at coltan mines in Congo and the difference in payment between men and women. The World Bank report *'Resources and Resourcefulness'* provides more information on the amount of children working illegally in the Congolese mineral extraction sector and elaborates on the causes for the appearance of child labor.

Chapter Three extensively provides information on multinational mining companies that have been linked to the abuse of Congolese coltan miners and illegal cooperation with armed rebels and corrupt state officials. The most significant documents that have been analyzed for this chapter are several human rights laws, with regard to workers, child labor and equal rights for women. International *Covenant on Civil and Political Rights of 1966*, the *UN Convention of Elimination of All Forms of Discrimination Against Women* and the binding *UN Convention on the Rights of the Child of 1973*. The articles of these treaties and conventions are outlined and discussed in Chapter Three. These treaties have been chosen as they represent the most significant human rights violations inflicted by the Congolese Army, Canadian and Chinese companies and rebel Congolese groups such as the Mai-Mai. The human rights organization OECD published research documents that cover human rights violations by multinational mining companies in the DRC, such as the report *'Chinese Mining*

Operation in the DRC, which describes human rights offenses made by Chinese extraction businesses. The OECD documents consist of interviews with coltan miners and state records on negligence by companies on preserving the human rights of coltan miners. The official website of the United States Department of State provided public access to their human rights reports on the DRC. These documents elaborate on the reports by the OECD and also provide in-depth research results on the use of forced labor in coltan mines by illegal armed groups in the DRC. The document '*Democratic Republic of Congo 2014/2015 Human Rights Report*' has contributed significantly to this chapter and dissertation. In this document, the US Bureau for Democracy, Human Rights and Labor report their findings on the use of abducted civilians by armed rebels. These civilians are forced to work in illegal coltan mines to aid in the financing of the rebels weaponry and to fuel their fighting cause. Aside from state documents and NGO reports, other objective sources have contributed to Chapter Three. Reliable political magazines, such as Canadian Dimension and academic websites, for example the Centre for International Policy Studies, were used in order to display the present situation in the Congolese coltan sector from an objective perspective.

Furthermore in Chapter Three, sub-question one is answered and is as follows: "What is the current role of the government of the DRC concerning the mining of coltan?". The first acquired source was the Congolese Edit-Law No. 81-013 of April 1982, which describes that all of the land in the DRC is officially state-owned and large scale mining activity is only allowed with a permit of the Congolese Cadastral Department. This law makes all mining activities by armed rebels illegal as they do not hold a mining permit, and therefore provide a documented confirmation that such mines are not allowed. The second source, the 1973 Congolese Land Law, elaborates on the Edit-Law by adding that multinational mineral extraction companies are to obtain mining permits before entering Congo and that small scale artisanal (simple hand tools) mining is allowed by the local citizens, with the mined minerals only being available for personal use. The Land Law also explains how the mining process is to be followed by mining companies and how companies are eligible for a mining permit in the DRC. The details on the process for mining permits in the DRC are explained in more detail in Chapter Three. A third Congolese legislative source on mining is the Mining Code and Regulations, in which it is described how Congolese citizens are to be financially compensated by the DRC government, for the use of land for mining nearby their homes. The first conflict-coltan related Congolese legislative procedure came in 2010 with the Mining Ban. The Mining Ban prohibits the artisanal mining in the Kivu and Katanga provinces, with the exception of permit holding companies, to try and hurt the income of armed rebels as they use coltan to buy weapons. The Mining Ban is described in more detail in Chapter Three. The legislative sources only provide practical information on how the treaties and laws are to function and how citizens and governments are to abide by them, the research reports provide an objective view on the effectiveness of these laws and are substantiated by statistics.

Chapter Four provides an overview of legislative efforts made by the international community on stabilizing armed conflict and improving the living conditions of coltan miners in the DRC. The chapter will also answer two sub-questions, of which the first is as follows: ‘‘Is there any form of international legislation concerning the human rights of coltan miners and coltan mining?’’. This sub-question is the focus for analyzing established international laws and treaties that involve protecting the human rights of coltan miners and the illegal trade of coltan. The second sub-question is as follows: ‘‘What could the international community do to improve the current situation of Congolese miners?’’. This sub-question is answered by analyzing the effectiveness of international law and treaties and what kind of issues the legislations bring that should be resolved by the international community. During the research for this dissertation, many international laws have been analyzed that relate to human rights and mineral mining, but did not cover the coltan miners in coltan. Therefore, Chapter Four focuses on sources concerning international human rights and mining laws that countries and international communities have established that have made an immediate impact on the living conditions of coltan miners in the DRC. Chapter Four also focuses on the efforts made by the UN to improve the living conditions of coltan miners in the DRC. The first significant UN source is the UN Security Council DRC Report of 2001, which is a transcript of the first UN meeting on the armed conflict in relation to coltan in the DRC. The UN Security Council report is essential to this dissertation as it laid out the first plans for establishing treaties and laws on the illegal trade of coltan from the DRC, which directly covers the coltan miners in the DRC. The United Nations Organization Stabilization Mission in the DRC (MONUSCO) is a significant effort made by the UN to stabilize the DRC. The MONUSCO mission consist of a military force of peace keepers who are present to stabilize the conflict in the Kivu provinces of the DRC. Their responsibility is to secure the human rights of Congolese citizens. They do this by aiding in the enforcement of new Congolese laws and established international treaties. MONUSCO is part of the UN Security Council Resolution 1925, which is an important source to this dissertation as it describes how MONUSCO should stabilize the DRC and to ensure no human rights are violated of Congolese citizens. Futhermore, Chapter Four explores more UN sources and legislations which substantiate the efforts of the UN to stabilize the DRC, and ultimately improve the livings conditions of the coltan miners.

Finally, Chapter Four explores the attempts made by major nations to eradicate the use of illegal coltan. The first source is Section 1502 of the Dodd–Frank Wall Street Reform and Consumer Protection Act which was introduced and signed by the U.S. president Barack Obama in 2010 and went in full effect in 2012. The Dodd-Frank Act would require U.S. and certain foreign companies to report and make public the use of so-called ‘‘conflict minerals’’ from the DRC or adjoining countries and their products. The Dodd-Frank Act was established in order to aid in the eradication of conflict minerals, such as coltan and improve the living conditions of civilians and miners in regions of

conflict, such as the DRC. The Dodd-Frank Act is an invaluable source to this dissertation as the Act directly impacts the coltan market in the DRC. However, the Act is not without its faults, which Chapter Four elaborates on by comparing the Dodd-Frank Act with two other laws enforced by the U.S. The first one being the Alien Tort Claim Act, which allows foreign citizens to seek remedies for human rights violations in U.S. Courts that have been committed by U.S. owned companies. The second is the DRC Relief, Security and Democracy Promotion Act, which was developed in 2006 to stop the trade of illegal minerals from Congo to the U.S. and other Western nations. The European Union is currently debating on adopting EU legislation to reduce human rights violations, violence, and environmental damage in the DRC, as well as adjoining countries. As of April 2015, the yet unnamed act is still in draft form. Chapter Four extensively elaborates on the possible EU legislation with the support of sources from the European Parliament and reliable news websites. Findings outlined in reports by non-profit organizations, such as Amnesty International, HCSS and Global Witness and the interview with Mrs. De Ridder, are used to provide a critical perspective on the efforts made by the UN and the international community to improve the living conditions of Congolese coltan miners.

To conclude, this dissertation used different research methods to provide answers to the research questions. Through desk research significant document data was analyzed and presented in the various chapters. While conducting field research on this topic has been difficult, Mrs. De Ridder provided an insightful and invaluable interview in which she shared her professional and personal findings on the relation between conflict and coltan in the DRC. The objectivity of the sources and researchers was always kept in mind, as many non-profit organizations tend to exaggerate on human rights topics. Databases of The Hague University and Koninklijke Bibliotheek provided assistance (of benefit) during the writing of this dissertation. Objective news sources and political online magazines were used in order to present the most up-to-date developments, as the armed conflict in the DRC is still ongoing and ever-changing.

III. Chapter 1: The Democratic Republic of Congo

This chapter provides background information on the Democratic Republic of Congo (DRC) and aims to clarify specific historic events that have led the DRC to its current complicated political state. Firstly, this chapter provides a brief description of the demographic and economic situation of the DRC, as it is relevant for understanding the causes of conflict in the country. Finally, a historic overview of recent conflicts in the DRC, its contributing factors and the involved parties will be provided.

Background Information

Located in Central Africa, the DRC covers an area of 2.3 million km² making it the second largest country in Africa after Algeria. Compared to European Union (EU) member states, this makes the DRC as large as France, Spain, Sweden, Germany and Finland put together (HCSS, 2013, p. 29).

The DRC is the largest country in Sub-Sahara Africa (countries located south of the Sahara Desert) and is surrounded by Angola, Zambia, Tanzania, Rwanda, Burundi, Uganda, South Sudan and the Central African Republic (HCSS, 2013, p. 29). The largest city in the DRC is the capital, Kinshasa, with a population of 11.1 million citizens.

Population

As of 2015 the DRC has an estimated population of 85 million and is growing rapidly (INS, 2015, p. 68). This makes Congo the third largest African country and the sixteenth largest country in the world, based on human population. The total fertility rate in the DRC has been falling rapidly. The average number of children born to Congolese women was six in 2008, but has declined to 4.8 in 2014 (Index Mundi, 2015). The same pattern can be seen in the national death rate. In 2000, for every one thousand citizens the national death rate was an average of 15.38 but has declined through the years to 10.3 in 2014.

The population of Congo is ethnically diverse, consisting of more than 200 distinct ethnic groups of which the majority are Bantu people. Together the Mongo, Kongo and Luba people (Bantu) and the Mangbetu-Azande people of the Congolese Orientale Province, make up for more than 45% of the population (TWF, 2016). Although more than a hundred local languages and dialects are spoken, the official language is French. In addition to French, there are four recognized national languages; Lingala, Kikongo, Kiswahili and Tshiluba (HCSS, 2013, p. 29). Due to the many different ethnic groups, languages and dialects, many Congolese have a strong sense of identity based on their cultural backgrounds. Therefore, rivalry between different ethnic groups is not uncommon in the DRC (HCSS, p. 30, 2013).

Economy

Due to the disastrous economic performance in the DRC, the current standard of living is extremely low. Figure 1 displays the development of the gross national income (GNI) per capita in the DRC as a percentage of GNI per capita in Sub-Saharan Africa. The chart indicates that at the time of its independence, the DRC had a GNI per capita that was nearly twice as high as the average of all the Sub-Saharan countries combined. Throughout the following decades the percentage dropped and reached an all-time low in 2011 with 15% (HCSS, p.30, 2013).

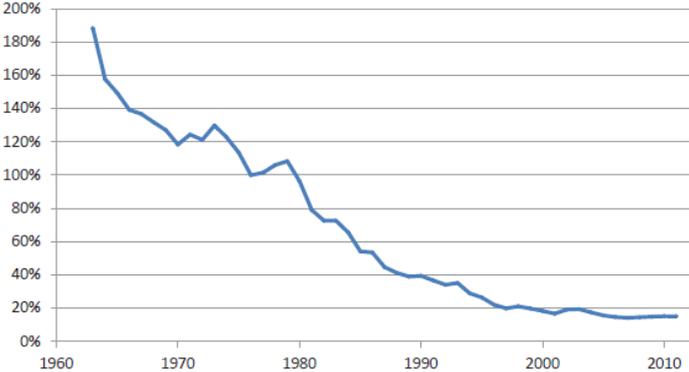


Figure 1: GNI per capita in the DRC as a percentage of GNI per capita in Sub-Saharan Africa. (Source: HCSS, p.30, 2013)

However, it should be noted that the economy of Sub-Saharan Africa grew slower than the rest of the world over this period. According to The Hague Centre for Strategic Studies (HCSS), when comparing the DRC to countries that performed better in terms of GNI per capita than the Sub-Sahara African countries, the economic downfall of Congo becomes even more evident. The per capita GNI in the DRC in the early 1960s was twice as high as that of South Korea and three times the number of Botswana. As of 2011, this indicator was 110 and 40 times higher in South Korea and in Botswana than the GNI per capita in the DRC (World Bank 2, 2015). These figures show that the economic downfall of the DRC occurred before the first recent conflicts, which were ignited in 1996.

Figure 2 portrays the GNI per capita of the five lowest performing countries in the world. The DRC had the second lowest GNI per capita in world by the end of 2014 with \$680, only performing slightly better than fellow Sub-Sahara African country, the Central African Republic (UNDP, 2015, p. 210).

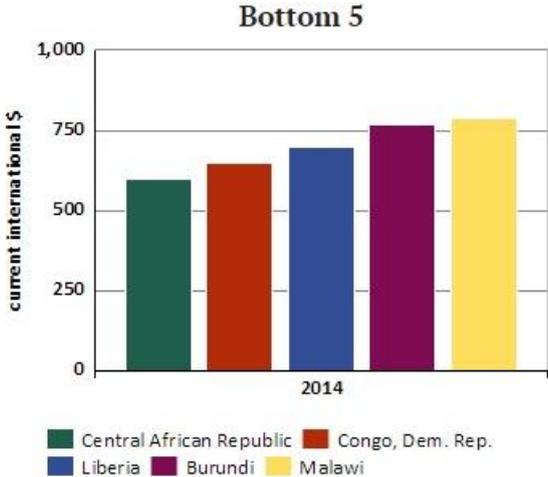


Figure 2: GNI per capita for the 5 lowest performing countries as of 2014
 (Source: KNOEMA, GNI PPP, 2015)

In its 2015 Human Development Report, the United Nations Development Programme ranked the DRC at 176 of 188 participating countries on the Human Development Index (UNDP, 2015, p. 50). This indicates that the DRC is in an extreme poor state as it performs below global standards in areas such as public services, education, health, infrastructure, sanitation, transport and economic growth.

Natural resources

While the formal economy of the Congo is fractured, the country can arguably be considered wealthy due to its natural resources. Some observers consider the DRC the richest country in the world as its untapped deposits of raw minerals are estimated at a value of US\$ 24 trillion (Global Edge, 2015). These deposits include diamonds, copper, gold, zinc, cobalt and coltan.

The Congolese economy has benefited from the mining industry since the colonial times, with the mining of coltan starting in 1910 (Woods, 2015). Over the course of history, the mining industry accounted for an estimated 25% of the Congolese gross domestic product (GDP) and about three-quarters of the total export revenue. In the early 1940’s, uranium from the DRC was used for the Manhattan Project by the United States in order to build the first nuclear bomb, which was used to bomb Japan in the Second World War. In the late 1980s and more recent years, the DRC was one of the leading countries in the production of diamonds and copper. In late 2001, however, the mining sector’s share of the Congolese GDP dropped to 6%. This was due to economic mismanagement and the degradation of Congolese state institutions (HCSS, p. 32, 2013).

Conflict in the DRC

Since its independence from Belgium in 1960, the DRC has been marred by numerous conflicts. In May 1960, the first national elections were held and Congo was declared independent on June 30, 1960. It was not long after its official independence that the first post-colonial conflicts and rebellions arose in Congo. The period between 1960 and 1966 is now known as the Congo Crisis as it became overwhelmed by political instability and disorder (HCSS, p. 34, 2013). The Chief of Staff of the Congolese Army, Joseph Mobutu, seized power through a military coup in September 1960. This led to the temporary suspension of parliament and the arrest of the DRC's first prime minister, Patrice Lumumba. In January 1961, Lumumba was executed (Woods, 2015). These events led to the establishment of separatist movements in the provinces of southern Kasai and Katanga (see Figure 3), such as the *Conseil National de Libération* (CNL). The CNL was located in the eastern provinces of Congo and operated as a short-lived revolutionary government as Mobutu seized power once again through a military coup in November 1965. Mobutu was backed by its Western allies, Belgium and the United States (HCSS, p. 34, 2013).

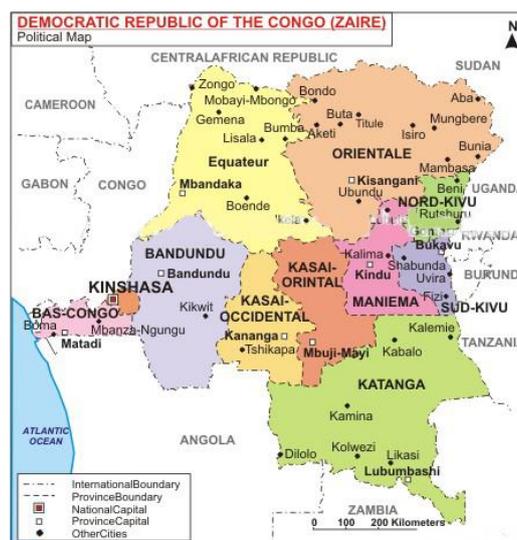


Figure 3: Map of the Democratic Republic of Congo

(Source: focusafrica.gov, 2015)

For 32 years Mobutu remained in power and in 1971 he renamed Congo to Zaire. During his reign the amount of conflicts and its intensity declined, however, there was no real stability. Rebellions, such as the 'Shaba rebellions', were aimed at Mobutu as an attempt to remove him from power. The 'Shaba rebellions' found their origin in the prior separatist struggle in the Katanga province and were organized by the neighboring countries of Angola and Zambia in 1977 (HCSS, p. 35, 2013). Ultimately, the rebels were defeated by the national army, the *Forces Armées Zaïroises* (FAZ) and its Western allies. This was also due to the fact that the rebels never gained any popular support.

During the rule of Mobuto, a single-party political system was in place which gave rise to a culture of corruption and economic mismanagement. This period in time became known as the ‘le mal Zaïrois’, the Zairian Sickness, as a synonym for the failed state. Although, it was after Mobuto’s rule that the country began to fall in more deadly conflicts with the First Congo War being the first conflict (HCSS, p. 35, 2013).

First Congo War (1996 – 1997)

In the spring of 1994, the entire African Great Lakes region (the DRC, Kenya, Rwanda, Tanzania, Uganda and Burundi) became entwined in the effects of the Rwandan genocide. Over 800,000 Tutsi and moderate Hutu natives were killed as a result of an ethnic cleansing by the Hutu power groups Interahamewe and Impuzamugambi (United Nations, 2013). The genocide came to a halt as the Tutsi organized Rwandan Patriotic Front (RPF) defeated the Rwandan Armed Forces (FAR). As a result, an estimated one million Rwandan Hutus crossed the border into the DRC, fearing prosecution by the RPF. The refugee camps in Congo were often used by exiled members of the FAR and the Interahamewe rebel group as operation bases for cross-border raids to Rwanda.

A crisis occurred when Kivu politicians threatened to expel a Congolese Tutsi group, the Banyamulenge, from Congo in the summer of 1996. The Tutsi group tried to force out ex-FARs which caused the Rwandan government to call for disarmament of the Rwandan rebel forces. The Rwandan government did not receive any response from the rebel clustered refugee camps and invaded the DRC with the support of Uganda, Angola, Burundi, Zambia, Zimbabwe and Ethiopia. This was the start of the First Congo War (CS Monitor, 2011).

In October 1996, Rwandan and Ugandan armies joined forces and formed the *Alliance des Forces Démocratiques pour la Libération du Congo* (AFDL). The AFDL was commanded by Congolese native Laurent Kabila and was formed in the city Kigali, in Rwanda. The Rwandan and Ugandan forces provided the armed group with equipment, training and bases (HCSS, p. 36. 2013). The combined effort was able to defeat the weakened Zairian Army as they were unable to prevent the invasion. In May 1997, Kabila and the AFDL were able to overthrow Mobuto’s government as he fled from the city of Kinshasa. Kabila named himself president and renamed the country to the Democratic Republic of Congo in September 1997 (CS Monitor, 2011).

Second Congo War (1998 – 2003)

As soon as the First Congo War ended, the country was already on the brink of a new confrontation. The violence against civilians never faded and neighboring states continued to claim that the DRC was harboring armed groups that posed a threat to them. As for Kabila, he refused to share power with Mobuto’s opponents and started to perceive the military presence of Rwandan troops as an intruding

force, leading to the erosion of their alliance (HCSS, p. 37, 2013). As Kabila ordered all Rwandan troops to leave the country in July 1998, two Congolese Tutsi military units mutinied as a protest. This led to army infighting on 2 August, 1998, to which the Rwandan military replied with an invasion into the DRC to support the mutineers (CS Monitor, 2011).

Rwanda, Uganda and (eventually) Burundi united their armed forces and established the *Rassemblement Congolais pour la Démocratie* (RCD), which was aimed at overthrowing Kabila's government and securing their borders. Within the first few weeks of the invasion, the RCD managed to take control over North and South Kivu, North Katanga and Orientale Province and brought their offensive into the Équateur province (see Figure 3). It was due to the poor state of the *Forces Armées Congolaises* (FAC) that Kabila anticipated a military defeat of his army. However, other African nations eventually intervened on behalf of Kabila in August 1998. Angola was the first nation to come to Kabila's aid, followed by Chad, Sudan, Zimbabwe and Namibia (Eichstads, p. 15, 2011)

As warfare continued, the conflict emerged into a stalemate. The provinces were divided as the RCD controlled the eastern zone, while Kabila and his allies controlled the western provinces (HCSS, p. 37, 2013). Kabila tried to get the upper hand by incorporating Interahamwe forces into his army and by allying himself with Congolese militia, the Mai-Mai. In turn, the Mai-Mai provided aid to the Rwandan and Burundian insurgency groups, who were supplied with arms and political support from the capital of the DRC, Kinshasa (HCSS, p. 37, 2013). As for the Rwanda-Uganda alliance, it began to falter over time. The RCD split into various factions who violently fought amongst each other. On April 5, 2003, another rebel movement involved itself in the conflict, the *Mouvement de Libération du Congo* (MLC), led by Kinshasa native, Jean-Pierre Bemba. The MLC received significant support from Uganda, allowing Bemba's forces to have a prominent presence in northern Congo (HCSS, p. 37, 2013).

With the armed conflict causing a humanitarian calamity and hardly any military achievements, Libya and South Africa pressured the involved parties for a ceasefire agreement. This originated in July 1999 when the seven states involved signed the Lusaka Ceasefire Agreement (Eichstads, p. 27, 2011). To monitor the situation, the United Nations (UN) sent 5,000 peacekeepers as part of the UN Mission in the Democratic Republic of Congo (MONUC). However, within the first 18 months of implementing the peace agreement, all involved parties violated the terms to which they agreed (CS Monitor, 2011).

In January 2001, President Kabila was assassinated by his bodyguard, and his son Joseph Kabila became president of the DRC. Kabila proved to be an adequate mediator and politician as he was actively engaged in the dialogue for peace and stability. In 2002, peace treaties with Rwanda and Uganda were signed, which was followed by the withdrawal of all foreign military forces in Congo

(CS Monitor, 2011). In December 2002, Kabila signed the Global and Inclusive Agreement on the Transition in the Democratic Republic of Congo along with the MLC, RCD and most of the rebels groups. Based on the agreement, Kabila promised a power-sharing interim government in which all national parties involved would be able to participate in general elections (CS Monitor, 2011). In the first democratic presidential and parliamentary elections, in 2006, Joseph Kabila was elected in a second-round vote. However, the international community did observe that the elections caused various small violent clashes as not everyone was pleased with the outcome (HCSS, p. 38, 2013).

Kivu Conflict (2004 – present)

During his first five-year term as president, Kabila faced challenges of which most were originated from the eastern provinces: North and South Kivu, and on a smaller scale, Ituri (see Figure 4). The issues at hand were of ethnic and political nature and the defected general of the Congolese Army, Laurent Nkunda, opposed Kabila (Eichstads, p. 30, 2011). Nkunda established the *Congrès National pour la Défense du Peuple* (CNDP) in 2006, an armed group dominated by Congolese Tutsis and backed by Rwanda. The CNDP battled the Congolese army, while the Hutu rebel group, *Forces Démocratiques de Libération du Rwanda* (FDLR), composed of ex-FAR fighters, staged attacks on the civilian population. The Mai-Mai rebels were excluded from the peace talks in 2002 and thus continued their efforts on creating local instability (HCSS, p. 39, 2013).

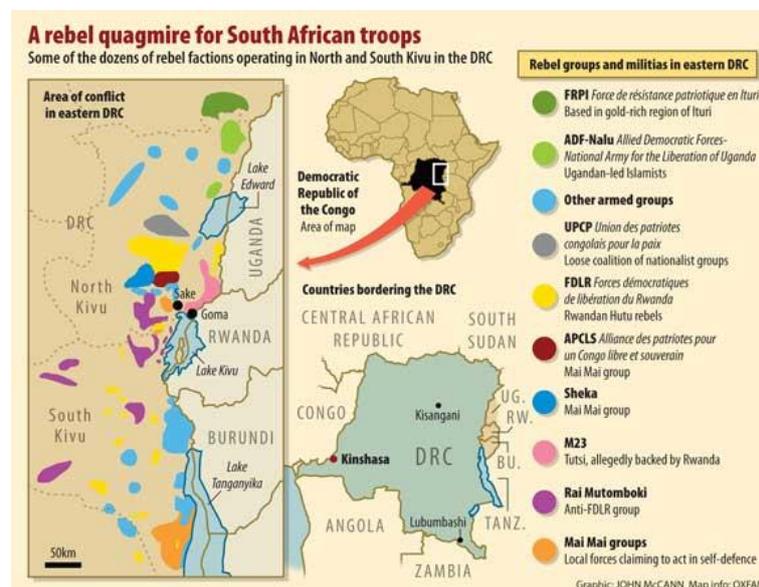


Figure 4: Rebel groups in the DRC

(Source: OXFAM, McCann, J., 2012)

President Kabila was supported by the UN's Congolese peacekeeping force, MONUC, and launched a joint assault in 2009 with the help of Rwandan and Ugandan forces against the FDLR in the Kivu provinces. This only temporarily dispersed the FDLR instead of defeating them. However, due to the

pressure of Rwanda the CNDP was disarmed and its leader, Nkunda, was arrested in January 2009. The CNDP agreed on signing a peace treaty with the DRC, which led to the CNDP being integrated into the Congolese army, the *Forces Armées de la République Démocratique du Congo* (FARDC) (Eichstads, p. 52, 2011).

In 2010 MONUC was renamed the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO). The organized mission assisted the Congolese army in fighting the newly found March 23 Movement (M23) by providing training to soldiers and protection to civilians. The armed group was formed in 2012 by former CNDP soldiers that mutinied and moved away from the FARDC (MONUC, 2011). Under the leadership of Bosco Ntaganda, the group claimed that the Congolese government failed to keep its side of the agreement on the integration of former CNDP soldiers into the Congolese army, which was signed on March 23, 2009 (HCSS, p. 40, 2013). According to UN reports, the M23 rebels were supported by Rwanda and Uganda who were able to finance their arms by selling illegal minerals, such as tungsten and coltan, smuggled from mines in Congo (HCSS, p. 40, 2013).

In May 2013, due to the military efforts of the FARDC, MONUSCO and rival factions, Ntaganda entered Rwanda and surrendered to the US embassy. Ntaganda was no longer capable of maintaining M23 and requested to be transferred to the International Criminal Court in The Hague, the Netherlands (NCSS, p. 40, 2013). In January 2015 the UN and Congo troops launched an assault against FDLR and smaller rebel groups in the Kivu regions (Greyl, L. 2015). Since the start of the Second Congo War and the occurrence of the Kivu Conflict, over 5.4 million people have died due to the violence, as the ongoing fighting between the FARDC and rebels groups still claim an estimated 1.500 lives daily, due to war related causes (Ma, 2014, p. 2)

Corruption

During his 32-year rule, Mobutu brought the DRC (then Zaire) to a form of 'kleptocracy', meaning that the Congolese government illicitly collected state revenue for personal interests. After the fall of Mobutu, a relative of the former president admitted that corrupt employees of the Congolese government, accompanied by Mobutu, occasionally visited state banks to collect money, of which the total has been an estimated US\$4billion by the end of Mobutu's term (Mesquita, 2003, p. 167). Mobutu brought political corruption to his government, which still exists in the current political state of the DRC with President Joseph Kabila. The on-going fight over the DRC's mineral resources in the Kivu Conflict sustains the political environment of violence, public discontent and insecurity. All these factors stimulate the persistent governance crisis and undermining efforts of eradicating political mismanagement, weak state institutions and corruption (TI Overview, 2014, p. 1).

Since 1995, Transparency International has been annually measuring levels of corruption with the Corruption Perceptions Index (CPI) in various countries. The CPI ranks countries by their perceived levels of public corruption that have been determined by expert studies and opinion surveys. However, the CPI only attempts to measure forms of public corruption, and not private corruption (TI Overview, 2014, p. 11). Thirteen studies and surveys should be conducted for each country by institutions, such as the World Bank, African Development Bank and World Economic forum, for countries to be eligible for the CPI. The results are in a form of a grade, ‘00’ being the lowest and meaning ‘*high levels of corruption*’ and ‘100’ being the highest grade and meaning ‘*clean of corruption*’ (CPI, 2010, p.1). According to the CPI the DRC public corruption levels rank among the worst in the world with a rating of ‘22’ and ranking 147 out of 168 countries in 2015 (see Figure 5.).

Year	Ranking	Countries ranked	Rating (00 to 100)	
2011	168	182	20	-
2012	160	174	21	-
2013	154	175	22	-
2014	154	174	22	-
2015	147	168	22	-

Figure 5: DRC corruption levels measured the Corruption Perceptions Index in the past five years (Data provided: Transparency.com, CPI Overview 2015)

It can be argued that the CPI does not provide a complete and precise measurement as it only concerns public corruption and does not include potential private corruption. Moreover, corruption can be considered too complex to be captured by a single score, as countries vary in population size, political institutions and ethnic and cultural standards. However, it is evident that there is a concerning level of corruption present in the DRC.

There are a number of forms of corruption in the DRC, with the most common practice being petty and bureaucratic corruption. Bureaucratic corruption is a result of non-existent state infrastructure in various parts of the DRC, such as political institutions with a lack of resources, low salaries and unpaid staff, who are relying on bribery to secure a better income. Transparency International reported

in 2014 that 62 percent of the Congolese citizens had to pay a bribe in a period of twelve months, which were paid to police officers, education services and tax and permit officials. The same process occurred with private companies, of which 65 percent were expected to make informal payments to government officials in order to get work done (IT Overview, 2014, p. 3). Political and electoral corruption is also present in the DRC with regards to result manipulation of elections, illegal campaign financing and instances of bribing parliamentarians to approve or reject legislation motions against members of the government (IT Overview, 2014, p. 3). Political patronage and clientelism are also part of corruption in the DRC as president Kabila ensured the overrepresentation of cabinet members loyal to him, such as friends and relatives. Kabila applied the same method to other state enterprises in order to gain more economic and political power. This form of corruption is a habit in the Congolese government and extends to state institutions such as the military and the judiciary with Kabila firing Supreme Court judges and Generals, replacing them with self-appointed unqualified magistrates (IT Overview, 2014, p. 4 & 7). Corruption levels in the DRC are also manifested in the mining sector, in particular the illicit exploitation of natural resources and military involvement are common. In the eastern provinces of Congo, Kivu and Katanga, armed rebels and the Congolese army control the trade of minerals. As a result, the armed rebels and Congolese army have resorted to forced labor, extortion and imposing illicit taxes on the Congolese civilian population and private mining companies (IT Overview, 2014, p. 4). Chapter Two shall elaborate on the connection between armed groups and the coltan trade in the DRC.

Conclusion

To conclude, the modern history of the DRC has been plagued by repeated outbreaks of violence which have various backgrounds such as political, ethnical and numerous stakeholders ranging from state and the national army, to rebel groups and neighboring countries. The DRC lacks any form of stability since its independence from Belgium and the thirty-two-year rule of Mobuto, which attributed to the erosion of state institutions, giving rise to corruption, allowing Kabila to shape the government and judiciary to his own will. Without a functional formal economy, strong state institutions and an effective justice system, the DRC is to remain a failed state. In the past this has given rise to the cross-border conflicts such as the First and Second Congo War and the still ongoing Kivu Conflict, which appears to be far from ending, despite efforts made by the international community, such as the UN. The violence and corruption greatly hamper any form of state development and inflicts harm on the civilian population. These consequences should emphasize the significance for the Congolese government to eradicate corruption and bring stability within the state institutions to create a functional state and society.

IV. Chapter 2: The Mining of Coltan

Coltan is a high-value mining mineral which is used in modern electronics such as cell phones, medical machinery and jet fuel engines. Chapter Two is divided into two sections: the first segment describes the global industrial uses of coltan and elaborates on the technical importance of coltan in modern day electronics. The second portion of this chapter describes the Congolese coltan mining industry and elaborates on the link between coltan and conflict in Congo.

Coltan

Coltan is short for columbite-tantalite, industrially known as tantalite, and is a dull metallic ore from which the elements niobium (formerly known as columbium) and tantalum can be extracted. While both elements are of commercial value, tantalum is more commonly used due to its invaluable technological possibilities it provides for producing modern electronic equipment. (Magma Coltan, 2014). The primary industrial use of coltan (and notably its tantalum core) is the production of tantalum-capacitors which are manifested in most modern electronic devices as it is an excellent conductor of electricity. The tantalum-capacitors are capable of handling high electronic pulses which are required for separate hardware components to function as a single unit, such as mobile phones and laptops (Papp, 2009, p. 2). However, its use extends beyond phones and computers as the coltan alloy allow devices to function at high temperatures without the capacitor breaking down or melting, making the mineral invaluable for air and land turbines in jet engines and rocket nozzles (Magma Coltan, 2014).

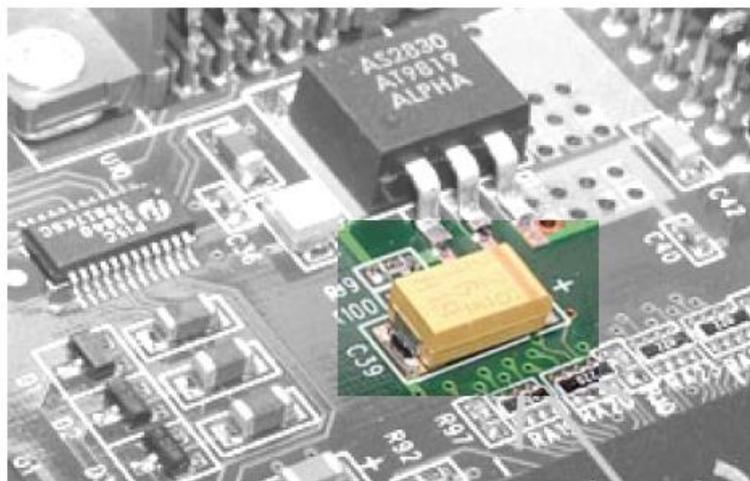


Figure 6:A tantalite-capacitor unit
(Source: Ma, 2014 p. 5)

Coltan ores

Coltan is a rare metal that can be found in every continent, with the exception of Antarctica. Aside from the DRC, there are various other countries around that contain rich coltan ores and use mining facilities to produce coltan. Information on the most relevant coltan rich countries will follow below, including the DRC.

South America

In South America (or Latin America) only a few countries contain coltan ores or are actively mining coltan on a regulated and well organized basis. Currently, Brazil is the single largest coltan supplier and is home to the second largest refinery industry and accounted for 23% of the total coltan world supply in the past 4 years (USGS, 2012, p. 163). In the past, Columbia has been actively mining coltan but currently maintains a law which prohibits the mining of coltan. This is due to the illegal mining activities by rebels and paramilitary groups in the Columbian jungle, who sell coltan on the black market in order to fund their cause. In 2010, Columbia tried to auction off their coltan mining sites to international companies in an attempt to privatize the coltan industry; however, there was no commercial interest in the auction (Molinski, 2012, para. 7). Since most of the coltan mines are located in remote jungles and are claimed by Columbian rebels and paramilitary forces, they greatly damage the environment and harm the indigenous people who live there as they mine for coltan. The Venezuelan government discovered a rich coltan ore in 2009 and immediately militarized its location in order to prevent illegal mining by armed rebels and placed a commercial ban on coltan mining (Molinski, 2012, para. 5). However, in more recent years, smaller coltan ores have been exposed by armed Venezuelan rebels in remote jungles, selling coltan on black-markets. This has led to armed clashes over control of coltan mines between rebels and the Venezuelan military army. Like the Columbian rebels, the Venezuelan armed groups cause great damage to the environment and the local citizens, forcing the native Indians to work in the mines (Diaz-Struck, 2012, para. 8). However, the Venezuelan government itself is another cause for concern as they use state owned coltan for the production of military grade ‘smart bombs’, which are destructive bombs that can be attached to aircrafts. The Venezuelan government has been in talks with countries such as Iran, China and Russia in an attempt to gain financial and political support for the production of smart bombs and building mining facilities (Diaz-Struck, 2012, para. 13).

North America & Australia

North America and Australia are the only Western actors with a relevant industrial coltan background as the Western coltan industry has been in decline for the past decade. However, as of 2011, Australia ceased all national coltan mining activities as demand declined for Australian coltan, while demand grew for more affordable Chinese coltan (Willis & Warwick, 2011, p. 5). As for North America, the

United States (U.S.) and Mexico also ceased coltan mining operations and no longer contain any operational coltan mines, leaving Canada the sole producer in the continent. After the ‘coltan boom’ of 2000-2001, which was ignited by a high coltan demand for the production of PlayStation 2 videogame consoles, the national Canadian coltan industry declined as the demand for Canadian coltan decreased due to higher production costs compared to those of other countries, such as China. In 2009, the overall coltan production of Canada fell from 10 percent to lower than 4 percent of the total global coltan supply (USGS 2012, p. 163). In 2008, due to national coltan decline, Canadian mining companies successfully build mining facilities in the DRC with an interest in gold, tin, copper and coltan ores. By the end of 2011, the overall value of Canadian mining assets in the DRC has been estimated at Cdn.\$2.6 billion by Natural Resources Canada, and as of 2011 it Canada owns around 20 percent of the legal coltan mines in the Katanga province (Feeny & Lamb, 2015).

Asia

Currently China, Malaysia and Thailand are the only coltan rich countries that are active in the coltan industry in Asia. In Malaysia and Thailand coltan is a byproduct of tin mining, which is the primary mining mineral in their respective mining sectors, and is sold on a small scale. China, on the other hand, is the largest coltan producer in Asia and the single largest coltan refiner in the world, making up for a third of the total coltan supply (USGS 2012, p. 162). China is primarily known for its import of large quantities of raw coltan, which are gathered from various countries such as Brazil and the DRC, where it owns 80 percent of the legal mines in the Katanga province (Goethals, S., Okenda., & Mbaya., 2009, p. 28). In 2001, the UN Security Council reported that hundreds of tons of illegal raw coltan from the DRC are processed in China on a yearly basis, meaning that China bought coltan which is mined and sold by armed rebels. However, as Chinese coltan refineries blend all imported coltan together, the legal and illegal conflict coltan that is imported from countries of conflict such as the DRC, become untraceable and end up in electronic devices on a global scale (UN, 2001). While Western countries enforced laws which prohibit the use of conflict related coltan (see Chapter Four), the Chinese government is unlikely to sign such laws as the Chinese mineral industry benefits from illegal coltan as China is the sole country that does not directly prohibit illegal coltan from conflict countries (Ma, 2014, p. 3).

Democratic Republic of Congo

The mining of coltan in the DRC first began in 1910 when traces of coltan ores were found in the eastern part of the country in the provinces North Kivu and South Kivu and Katanga. Up until the early 1990s, coltan was considered a byproduct of tin mining, which is found in the mineral cassiterite, and often contains traces of coltan as cassiterite ores can be found near coltan ores (Woods, 2015). The coltan mining industry in the DRC primarily consists of artisanal mining, indicating that

bare hands and simple work tools (i.e. shovels, pick axes) are used for the extraction of coltan. However, the use of modern industrial mining has been increasing in Congo as foreign mining companies, primarily Chinese and Canadian businesses, have been building extraction sites at coltan mines in the eastern provinces of the DRC: Kivu and Katanga (Woods, 2015). The working conditions at these companies are often left unchecked by the Congolese government as the DRC is an extremely poor state with high levels of corruption, weak state institutions (as outlined in Chapter One) and lack of political stability and a objective justice system. Moreover, many of the international mining companies are to pay bribes to government officials and armed groups in order to get work done (which Chapter Three will elaborate on). However, even with these obstacles, the Congolese mining industry covered more than 64 percent of the national treasury in 2015, making the extraction sector the most significant income for the state (Interview, De Ridder, 2015, ap. 1). As mentioned earlier in this chapter, the demand for coltan increased in 2000, a coltan boom, due to the mass production of the PlayStation 2 videogame consoles. Due to the high demand for the Sony gaming console, the coltan industry in Congo flourished as prices for coltan started to rise in June 2000 and peaked in early 2001, in which the DRC accounted for 12 percent of the globe's total coltan production (HCSS, 2013, p. 45). However, the coltan boom caused an increase in conflict in the Kivu provinces and the Katanga province, as armed groups wanted to profit from the coltan boom by seizing artisanal mines and selling coltan on the black market in order to finance their cause. As the demand for coltan fell in late 2001, the interest in artisanal coltan mining declined, with many miners going back to their homes. In 2010, a second short coltan boom occurred in the DRC, due to price increase for tantalum minerals and the demand for smart phones, which increased the coltan production of the country to 20 percent of the global coltan supply (Sutherland, 2011, p. 12).

NGO's such as the Environmental Justice Atlas (Grey, 2015) and War Child (War Child, 2015) have stated that the DRC coltan resources account for 60 to 80 percent of the world's coltan supply. However, this number is significantly lower according to findings of The Hague Centre for Strategic Studies (HCSS), which conducted an in-depth research on conflict related coltan in the DRC. In its report, '*Coltan, Congo & Conflict*', the HCSS states that Congo is accountable for only 8 percent of the world's coltan reserves, while Australia and Brazil hold a combined total of 60 percent (HCSS, 2013, p. 43).

Trade

During the coltan booms, the mining of coltan in Congo primarily consisted of artisanal methods, as the convenience of artisanal mining is that it can be managed on a micro-level, meaning that no large organization is needed due to use of basic hand tools and lack of mechanized equipment. The same applies to the workers who are not required to have any form of education and can work at an artisanal coltan mine on a seasonal basis, with job opportunities fluctuating with the prices for coltan

(Delawala, 2015). Currently, artisanal mining is still a major aspect in the Congolese Kivu and Katanga provinces, even with the increasing presence of international mining companies in recent years.



Figure 7: A Congolese coltan miner displaying raw coltan.

(Source: allafrica.com, 2015)

With the presence of micro-level artisanal mining, the small trade business of coltan has flourished as the Congolese government is incapable of monitoring all artisanal mines, as many of the mines are located in uncharted jungles, allowing artisanal miners to trade coltan without the government interfering. The Congolese government is barely capable of authorizing property rights and mining contracts for artisanal coltan mining as political corruption, such as bribing, clientelism and patronage. In addition underpaid government employees, lack of staff and resources, are the cause for weak state institutions (as mentioned in Chapter One), benefiting the small business trade of coltan (HCSS, 2013, p. 74). The small trade business consists mostly of local business men who either own the land where a mine is located or live in nearby villages. Small traders buy coltan at the mines and from the mines the coltan is handed to porters who carry the coltan on their backs through extreme climate conditions on unpaved roads and forests for many kilometers in order to avoid detection by the Congolese government. Once the porters arrived at their destination, bigger traders buy off the coltan and organize transportation to major trading centers in upper eastern Congo cities, such as Goma and Bukavu, this is most commonly done by small airplanes (Munn, 2011). The coltan is then weighted and analyzed to determine the value before being sold to major coltan processors. The preferred trade route for the export of coltan to international coltan producers, such as China, is through Rwanda in an attempt to avoid paying for export taxes that are placed by the Congolese government, making this method of exporting coltan highly illegal. In Rwanda the illegally imported coltan from the DRC can be sold legally on the international market when undergoing processing (i.e. cleaning the coltan and packaging it), which adds to their value, making the coltan ‘Rwandan’ according to national laws. Because of this method, Rwanda sells a great amount of coltan with Congolese origins to the international market, profiting from the illegal trade while the DRC does not (Amnesty, 2013 p. 7).

The same trade method also applies to coltan mines that are owned by armed groups, who fight for control of the mines with other rebels and the Congolese army.

At the end of the supply chain most of the Congolese coltan is exported to China as it possesses the single largest coltan refinery factories. Here large electronic companies buy refined coltan and manufacture electronic products. Once in China, the origin of the coltan becomes untraceable as all coltan deposits are blended together, making it near to impossible to maintain legitimate records of illegal coltan and its origins (Ma, 2014, p. 6).

Coltan Mining and Conflict

Since 2001, various non-governmental organizations, most notably Environmental Justice Atlas (Greyl, 2015), Congo Week (Congoweeek.org, 2015), Friends Of The Congo (friendsofthecongo.org, 2015) and War Child (War Child, 2015), argue that there is a connection between the ongoing Kivu Conflict and the mining and trade of coltan in the DRC. Due to these NGO campaigns the image of coltan being the cause of conflict in Congo has been established. Over the years, NGO campaigns label mined coltan from countries in armed conflict, ‘conflict coltan’ or ‘blood coltan’, to emphasize that people have died in the illegal coltan mines owned by armed groups and in the wars that are fueled by coltan. However, the idea that coltan, or any other mining mineral for that matter, are the sole reason for violence in the DRC is untrue, which will be elaborated below.

As mentioned in Chapter One, since its independence from Belgium in the early 1960s, the DRC has been marred by numerous conflicts, with the First and Second Congo Wars being the most devastating results. During the First Congo War (1996-1997), which was ignited when Ugandan and Rwandan military forces (AFDL) invaded Congo to fight Hutu rebels, the use of conflict minerals was not as prominent as in later wars. During this period, AFDL forces would loot Congolese mining sites containing gold, tin, copper and coltan, bringing the loot back to Rwanda and Uganda in order to sell it on the international market (HCSS, 2013, p. 45). While mining minerals were not the reason behind the First Congo War (nor did they finance armed groups directly), the environmental and political devastation caused by the conflict did pave the way for legal and illegal mining sites. This was due to the fact that the government was too occupied with reestablishing state institutions to efficiently monitor mining activities and was in dire need for any form of income, such as the extraction industry was able to provide (Stearns, 2011, p. 40).

The Second Congo War (1998-2003) occurred after the newly appointed Congolese president, Laurent Kabila, ordered the settled Rwandan military presence in the eastern provinces to leave the country as Kabila perceived his former allies as invaders. This led to army in-fighting as Congolese Tutsi troops mutinied against the Congolese army, eventually gaining military support from Rwanda and Uganda (the RCD alliance) (see Chapter One). During their presence after the First Congo War (and during the

Second Congo War), the RCD had taken over the power in the Congolese provinces of Kivu and Katanga, using mineral mines (such as coltan) to finance their military, stealing thousands of tons of coltan from public owned mines, selling it during the first coltan boom of 2000 (Eichstads, 2011, p. 32). The RCD also benefited from private owned coltan mines by providing protection to mining companies and their staff and escorting cargo (i.e. minerals, mining equipment) in exchange for a share of their profits. If companies would not agree with these terms, the RCD would hinder the mining companies by blocking truck routes or threatening employees (Eichstads, 2011, p. 35). Additionally, during the coltan boom, the Rwandan government would move prisoners to the Kivu provinces to work at mines in exchange for reduced sentences and small allowances, transporting the mined coltan back to Rwanda with the use of ground vehicles and aircraft (HCSS, 2013, p. 47).

The Kivu Conflict (2003-present) was ignited by the defected Congolese military General Nkunda who opposed the Kabila (son of Laurent Kabila) government and wanted to overthrow him by force, leading to the establishment of the FLDR rebel group, as elaborated in Chapter One. During the Kivu Conflict, various rebel groups such as the FLDR, Mai-Mai and M23 started to profit from Congolese minerals as they took over mining facilities by force and opened new illegal artisanal mines in the jungles of the Kivu provinces and Katanga (HCSS, 2013, p. 61). Artisanal mining has been an effective method of obtaining coltan as it allows armed groups to quickly move to new locations to unearth minerals and to quickly abandon an artisanal mining site when depleted or discovered by state authorities. For the armed groups the mining of coltan is a low-cost business and requires little effort to get organized. Occasionally, rebel groups and the Congolese Army (FARDC) fight over the control of mineral mines, with the FARDC currently controlling more than 50 percent of the North and South Kivu mineral mines (Eichstads, 2011, p. 45).

The amount of coltan used to finance armed groups is still a topic of public debate and is estimated to be less than 6 percent of the minerals mined by armed groups, with the remaining 94 percent consisting of gold, copper, tin and diamonds. The number of rebel controlled mineral mines in the eastern provinces of the DRC is an estimated 9 percent in 2015 (Enough Project, CM 2015, p. 4). While the trade in minerals is currently supporting armed groups, if the price for minerals would decline to unbeneficial levels or if all mining activities would be seized, then other methods of financing would definitely rise such as selling drugs or smuggling weapons. This means that ending the illegal mineral trade will most likely not end the armed conflict (Interview, De Ridder, 2015, ap. 1).

Conclusion

In conclusion, the global coltan industry is a fractured one, as various factors only provide small amounts of coltan to the global supply, with some countries having ceased coltan production entirely

due to high production costs. Coltan rich countries, like Columbia and Venezuela, are burdened with challenges such as armed groups fighting over coltan ores and lack of financial and political support, which will most likely take many years to solve. However, there are countries like Canada and Brazil that are actively participating in the coltan trade and possess various coltan mines, with Canada and China owning significant numbers of coltan mines in the DRC. As for being the largest coltan refiner, China provides the world with the biggest amount of refined coltan, yet knowingly imports illegal coltan from countries of conflict, like the DRC. Currently, the Chinese government is not planning on prohibiting the import of illegal coltan, as the coltan from conflict countries significantly adds to the revenue of its refineries. This indicates that China is part of the illegal coltan trade and hampers efforts of eradicating the use of illegal coltan in modern electronics.

As for the extraction industry in the DRC, it is dominated by artisanal mining and saw a rise of interest in the mining of coltan during the coltan booms of 2000 and 2010, with international mining companies relocating to the DRC to benefit from the price increase of coltan. During the First Congo War, illegal mining was not actively present and did not fuel the war or financed armed groups significantly. It was not until the Second Congo War and Kivu Conflict that the illegal trade in conflict minerals became common among armed forces, as many of the mines were under the control of opposing Rwandan, Ugandan and rebel forces, resulting in armed clashes with the Congolese Army. Currently, children and women work in artisanal mines under extreme conditions, with the women being sexually harassed on a daily basis and the children trying to provide for their poor families. To make matters worse, the Congolese Army, FARDC, is participating in the abuse and extortion of Congolese civilians by violently forcing them to work at artisanal mines, which is parallel to the methods of rebel groups. With the Congolese Army taking part in the abuse of Congolese citizens, it is evident that the government of Congo is part of the problem.

However, to state that coltan is the primary reason for conflict in the DRC would be inaccurate. The occurrence of violence in the past and present have all been related to either international conflicts, such as the presence of Rwandan Hutu rebels, or inner political struggles, like the defection of General Nkunda. The illegal trade of minerals became an attribute to armed groups in order for them to finance their cause and maintain their power. Furthermore, coltan covers only 6 percent of the minerals that are being mined and sold on the black market, with gold and other minerals making up for the remainder percentage. This indicates that coltan is not the most prominent mineral to armed groups. Finally, if the illegal trade of minerals would come to a halt, armed groups would most likely find other means to finance their cause and continue their violent campaigns, meaning that the armed conflict and the political issues in the DRC do not disappear once the illegal mineral trade is put to a halt.

V. Chapter 3: Living & Working Conditions and Human Rights Violations

The following chapter is divided into two sections. The first section of Chapter Three details the Congolese coltan mining workforce and working conditions, which are a result of significant human rights violations committed by armed groups and mining companies. Finally, the second part of Chapter Three discusses the involvement of the Congolese government concerning the human rights of coltan miners and efforts of improving the conditions in the artisanal mining sector.

Coltan Miners

During the coltan booms of 2000 and 2010, the interest in artisanal mining increased, with many Congolese citizens in the eastern provinces becoming artisanal coltan miners. This was because it is considered to be flexible work, allowing people to react faster to price increases of minerals than industrial mining, which requires planning, permits and large scale organizational efforts. (HCSS, 2013, p. 48). While precise data on the number of coltan miners is unavailable, an estimated 500.000 artisanal coltan miners are currently active in the DRC, with a total estimate of 1.000.000 artisanal miners who are also present in gold, copper and tin mines. The artisanal mining industry is believed to support up to 16 percent of the Congolese population. However, for many civilians, the mining of coltan is a seasonal job as the price of coltan adjusts to levels of global demand, and return back to their normal lives and jobs once the price for coltan drops significantly (HCSS, 2013, p. 47).



Figure 8: A crowded artisanal conflict coltan mine in North-Kivu
(Photo provided: MONUSCO/Sylvain Liechti, 2014)

Armed Groups

The human rights report of 2014 by the Bureau of Democracy, Human Rights and Labor of the United States Government highlighted that armed groups have been sexually abusing, beating and forcing miners to work long hours in coltan mines (Stat. Gov, 2014 p. 24) In several instances, the Congolese Army forced civilians, in the North Kivu and South Kivu provinces, to work in coltan mines where they also extract copper, tin and gold. The soldiers would surround mining towns and camps, attacking the civilians, and often rape women and girls, before rounding them up for work, including children. It has been reported that rebel groups FDLR, M23 and the Mai-Mai applied the same method and add children to their military ranks or forced them to work in artisanal mines. (Stat. Gov, 2014 p.13)

Much like the RDC during the Second Congo War, the FARDC is known to exploit private mining companies by requiring them to pay illicit taxes or otherwise force companies to cooperate with them by hindering their workers and transportation routes (HCSS, 2013, p. 38-39). There have also been reported instances of army controlled mines where workers were to buy out their freedom. All of the miners would start of their work with a debt, as they were given food, supplies and work equipment. The miners would need to work at the mine until they had earned enough to pay off their debt. However, the wages are extremely low at these facilities, forcing the miners to make long hours before they are able to earn enough to provide themselves and families (State.Gov. 2014, p. 4) In other instances Congolese police officers would purposely arrest civilians in the Kivu provinces without a criminally charged reason, with most of the arrested being unable to pay off their fines. If a civilian was not able to pay off the police officer, he would be forced to work in a mine to pay off his or her debt (State.Gov. 2014, p. 5).

By abusing the Congolese civilians and hindering mining companies (as mentioned in Chapter Two), the armed rebels and Congolese Military have violated the International Covenant on Civil and Political Rights of 1966 (CCPR), which the DRC signed in 2012. The CCPR Articles that have been violated are outlined below (CHR.org, CCPR, 2012):

- **Right to Life (Article 6):** Every human has the right to life and is protected by law. No human may be killed by unlawful means.
- **Ban of torture or cruel, inhuman or degrading treatment (Article 7):** No human may be hurt intentionally on a physical or mental level by unlawful means (lawful death penalty and killing of enemy soldiers during war being the exceptions)
- **Ban of slavery, slave-trade and forced labor (Article 8):** No human may be forced against their will to work, or being enslaved by other persons.

- **Right to liberty and security of person, ban of arbitrary arrest or detention (Article 9):** Every human must be protected by the state and allowed to live in freedom. The use of false arrests and imprisonments by police and other institutions is forbidden.
- **Equality before the courts and tribunals (Article 14):** Every human is equal to the law and shall receive equal treatment, no exceptions. The abuse of law enforcement is not allowed.

The armed forces in Congo have not only been involved with the violation of the CCPR, but the abuse and extortion of women and children has led to the violation of gender equality and child labor treaties, these are examined and explained in the following paragraphs.

Women and Children

While many of the Congolese artisanal (and coltan) miners are young adult men, the workforce also consists of women and children. In 2015, the Harvard Humanitarian Initiative, in cooperation with the World Bank, reported many women work in coltan mines, with their working conditions being of great concern, falling victim to abuse and sexual violence (HII, WB1, p. 5). The biggest abuse women face does not exclusively come from armed rebels and Congolese soldier, but also from civilian individuals who work alongside women in artisanal mines or locals that live in nearby mining towns. In the eastern provinces of the DRC, Kivu and Katanga, 4 out of the 10 women who work at artisanal mines come across sexual abuse on a daily basis which is inflicted by male miners and company employees (WB1, 2015, para. 3). While rape does occur, the sexual violence is mostly the result of women trying to gain access to basic needs such as food and water, but also work. Many male artisanal miners in the coltan mines deprive women of such needs in exchange for sexual acts, causing women to resort on prostitution as a means of income (WB1, 2015, para. 4).

The extortion of women has led to various human rights violations of the UN Convention of Elimination of All Forms of Discrimination Against Women (CEDAW). In 1979 this was adopted by the UN and its member states (including the DRC) to improve the living and working conditions of women. The articles of the CEDAW that have been violated in the DRC are as follows (CEDAW, 2008, p. 5-34) :

- **Gender Based Violence (GBV) General Recommendation No.19 by CEDAW Committee:** This section of the CEDAW states that any forms of sexual violence to women, such as rape, forced prostitution, molestation and sexual slavery are to be considered a form of discrimination and are to be prevented.
- **Discrimination: Art. 11: Discrimination in the field of employment & Art. 7: Right to participation :** The right to equal treatment, work, access to basics needs and payment is another matter of concern in the DRC. Women who are active in the artisanal mining sector

are often deprived of work by male miners and resort to prostitution in order to provide for their families.

- **Right to Health: Art. 11(f): Right to protection of health and safety in working conditions Art. 12 Art. 14.2(b): Access to healthcare:** Women in artisanal mines and mining villages are exposed to various health dangers, such as exposure to sexual transmitted infections, like HIV/AIDS, due to sexual violence. However lack of basic sanitation like clean restrooms and a clear water supply, right to healthcare and public health facilities on mining sites are also a significant and worsening problem (Sutherland, 2011, p. 7).
- **Access to Justice/Remedies and Accountability:** The lack of a functional and objective judicial system in the DRC, due to corruption, lack of staff and resources (see Chapter One) has limited women to access courts, attorneys and the authorization, hindering them from reporting on human rights abuses (Sutherland, 2011, p. 10).

According to reports by human rights agency Amnesty International (Amnesty, 2013, p. 14), all these violations are inflicted upon Congolese women by either the armed rebels, Congolese soldiers or employees of mining companies that work in artisanal mines or live in nearby mining towns.



Figure 9: A Congolese soldier managing child coltan miners in North-Kivu
(Photographer 'unknown', cookiessound.com, 2011)

Child labor is another concern which is connected to the artisanal mining of coltan. In the Katanga province, the presence of child workers under the age of 16, being as young as 5 years old, has been estimated at 40,000. This number would most likely be higher if the ages of 17 and 18 were included. The children often have to break down small deposits of ore by using rocks with their bare hands (Amnesty, 2013, p. 14). However, Amnesty International stated that the precise number on child workers is hard to determine as the Congolese Ministry of Labor is responsible for inspecting mine locations on child labor, yet it does not monitor these complaints as they lack the resources and staff to

do so (Sutherland, 2011, p. 30). In 2014, it has been estimated that 30 percent of the total artisanal workforce in the DRC consisted of child workers, which is a result of many poor farming families sending their children to artisanal mines to help provide for their families (Kerry, 2014.) As mentioned in the third paragraph of this chapter, children are often abducted or forced by soldiers and rebels to work in artisanal mines or join their ranks to fight (Stat. Gov, 2014 p.13).

The human rights of children and the rules on child labor are outlined in the internationally legally binding UN Convention on the Rights of the Child (CRC) of 1973 and have been signed by the DRC in 2010. The violated articles are outlined and elaborated below (UN Child Labor, 2010, para. 2 – 4):

- **Convention No. 138 on the Minimum Age for Admission to Employment, 1973:** In Article No. 13, the minimum age requires are set for every level of working intensity in which children might find themselves in: **Hazardous Work 18+** (any work which might hurt the health and morals of children), **Basic Minimum Age 15+** (the minimum age for children to work) and **Light Work 13+** (light work that does not damage children’s health or hinder their educational process). The DRC violates all three of the age requirements for children to work, as children as young as 5 years old have been seen working in artisanal mines, as reported by Amnesty International (Amnesty, 2013, p. 14).
- **Convention No. 182 on the Worst Forms of Child Labor, 1999:** Article No. 182 was added to the Convention in 1999, outlining the worst forms of child labor which are to be prohibited to all individuals under the age of 18 (UN Child Labor, 2010, para. 7).
 - a. ‘‘ all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labor, including forced or compulsory recruitment of children for use in armed conflict.’’
 - b. ‘‘the use, procuring or offering of a child for prostitution, for the production of pornography or pornographic performances.’’
 - c. ‘‘the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties.’’
 - d. ‘‘work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.’’

All Sections of Articles No. 138 and 182 have been violated by armed groups FLDR, M23, Mai-Mai and Congolese Army: forced labor in artisanal coltan mines, enlistment in their ranks, rape of children

and the health and safety issues that might occur by violence, lack of sanitation and health services and working in dangerous mining locations (Sutherland, 2011, p. 18). However, the abuse of artisanal miners is not exclusive to armed groups, as multiple Canadian and Chinese mining companies have been linked to the extortion of coltan miners. The following section of this chapter illustrates the violations of Chinese and Canadian mining companies.



Figure 10: Congolese child coltan miners in a Congolese Army controlled mine.

(Source: consolglobe.com, 2012)

Canadian and Chinese Mining Organizations

The presence of international mining companies has been increasing significantly in the Katanga province of the DRC, with Canada accounting for 20 percent of all commercial artisanal mines, and China taking the lead with 80 percent. In Katanga, an estimated 150,000 to 300,000 artisanal miners work in Chinese and Canadian owned mines, with the most prominent companies being the Chinese Congo Dong Bang Mining and Huachin organizations (Goethals, S., Okenda., & Mbaya., 2009, p. 28), and the Canadian Katanga Mining and Anvil Mining corporations (Feeny & Lamb, 2011). As mentioned in Chapter Two, the artisanal mines in the Kivu provinces are primarily dominated by the Congolese Army (FARDC) and armed rebels such as the FLDR and Mai-Mai, paving the way for international mining companies in Katanga.

However, the working and living conditions in several Chinese and Canadian artisanal mines in Katanga are to be considered unlawful, inhumane and dangerous. The primary circumstances miners find themselves in have been outlined in a report by Rights and Accountability in Development (Goethals, S., Okenda., & Mbaya., 2009, p. vi):

- **Accidents in Chinese and Canadian mines and production sites are not uncommon due to the lack of protective clothing, training and procedures.**
- **Workers who sustain serious injuries as a result of accidents at work do not receive proper medical attention.**

- **Minerals are illegally mined with the use of child labor. Some as young as 10 years old.**
- **Workers are exposed to harmful dust from the minerals they handle. They are not provided with face masks or other protective clothing and there are no facilities for taking a shower**
- **Workers work long hours, are treated arbitrarily and risk being summarily dismissed for trivial offences (like being a few minutes late for work) or on false accusations**
- **Security guards have assaulted workers and beatings are common. In some cases, workers have sustained serious injuries or are locked up for 24 hours to a couple of days in a transport container that functions as a cell.**
- **Most workers are hired on a casual basis and the companies do not pay their insurance.**
- **Corruption and inefficiency undermines the work of the Congolese police, labor inspectors and the courts.**

While there are multiple international treaties protecting the rights of employees and workers, the most relevant and significant is the International Labor (ILO) Organization Declaration on Fundamental Principles and Rights at Work of 1998, more commonly referred to as the ILO Declaration (ILO.org, About, 2010). The ILO Declaration has been signed by both China and Canada, meaning that mining companies from both countries are to abide by the declaration. The Articles of the ILO Declaration, relevant to the mentioned working conditions of Congolese miners in Chinese and Canadian mining companies, are as followed (ILO.org, About, 2010):

- **Abolition of Child Labor No. 138 and 182 (part of CRC):** Minimum work age should not exceed 18 for extreme working conditions, such as artisanal mining.
- **No Discrimination at Work No. 100 and No. 111:** Employees and workers should be paid and treated equally and with respect, in a safe environment, free of harassment and abuse.
- **Equality of Treatment (Accident Compensation) Convention, 1925:** The equal treatment of foreign and national employees and compensation for work-related accidents.
- **Safety and Health in Mines Convention, 1995:** Ensuring the safety of miners by providing essential protective clothing, medical attention (if needed) and other safety measures.

The companies that have been involved with the illegal treatment of Congolese artisanal miners are displayed in Figure BLA. However, the companies listed are not necessarily the only Chinese and Canadian mining companies in Katanga that have been mistreating their personnel. This list only consists of companies that have been reported by human rights organizations or have been brought before a court. It should be noted that more companies might be involved in the abuse of human rights and working conditions.

Chinese Mining Organizations	Canadian Mining Organizations
Huachin	Anvil Mining
Congo Dong Bang Mining	Katanga Mining
Congo Loyal Will Mining	
COTA Mining	
Emmanuel Mining	
Feza Mining	
Jia Xing	
Song Hua	

Figure 11: Chinese and Canadian Mines related to human rights abuses in DRC
(Information provided by: Goethals, S., Okenda., & Mbaya., 2009 and Feeny & Lamb, 2011).

While the allegations and violations of human rights are known to the Chinese government, the Chinese Ambassador in the DRC has stated that Chinese mining corporations and investors of Chinese are to abide by international and Congolese law. However, the Ambassador stressed that the Chinese government is not issued with the task of monitoring and controlling the mining organizations in DRC and safeguard the artisanal miners (RAID, 2011, p. 9).

The Canadian mining organization Anvil Mining has been linked to human rights abuse on multiple occasions. Dating back to 2004, Anvil had used their transport trucks to escort Congolese soldiers with the bodies of killed civilians, by the Congolese Army, who dumped the bodies in a mass grave (Feeny & Lamb, 2011). In 2005 Congolese soldiers have shoot and killed over 100 coltan miners in the town Dikulushi in Katanga, near Anvil’s dig site, who were also transported by the trucks of Anvil. (Engler,

2015) Local authorities have not been able to hold the company accountable due to the corrupt involvement of the Congolese Army, hindering their process. The families of the victims have appealed to the Canadian government in 2011 to start an investigation and to hold Anvil Mining accountable. The Canadian court concluded in 2012, that the case lacked any substantial information and evidence to hold the company accountable. Currently, the Compliance Advisor/Ombudsman of the World Bank is investigating the allegations against Anvil in order to make a new case against the company (BHRSC, 2014).

Efforts by the Congolese Government

As mentioned in Chapter One, the Congolese government has been overwhelmed by corruption, throughout various institutions such as police, judiciary, mining sector and national army. This allowed president Kabila and his followers to control major parts of the government, hampering the overall process of improving the working conditions in the mining sector (see ‘Corruption’). However, attempts have been made by the DRC to stabilize the country and to improve the conditions of the Congolese people and coltan miners. The efforts on improving the artisanal mining sector are discussed and outlined in the following paragraphs.

Mining Code

After the first coltan boom in 2000, ending in 2001, the DRC acknowledged the need for the regulation of mines, in particular artisanal mines. The mining industry of the DRC is regulated through national legislation and falls primarily under the control of the Mining Code. This was adopted in 2002 and officially enacted by the Mining Regulation of 2003 in an attempt to stabilize and control the mining sector (AfricanMetals, 2016, para. 2). The Mining Code provided regulative control of the mining activities in the DRC to the following institution and persons, in hierarchal order:

1. **The President of the Republic** can enact mining regulations and implement amendments to the Mining Code on his own initiative.
2. **The Minister of Mines** has the jurisdiction to approve, refuse and cancel mining rights of companies.
3. **The Directorate of Mines** is responsible for the inspection and monitoring of mining activities and compliance of health and safety matters, transport and production in mines.
4. **The Department in Charge of the Protection of the Mining Environment** has the power to implement mining regulations and enforce preservation legislation for the protection of the environments in which mines are located.

While the President of the Republic has the legislative power to enact mining regulations, giving him full control of the Mining Code, the Minister of Mines fulfills the daily tasks of the Mining Code and oversees all regulations and activities. For individuals and companies to be allowed to mine in the DRC, they first have to apply for a permit, as the land in Congo is state owned, according to the Mining Code and Constitution (DRC Mining Code, 2002, art. 4) . The applicant first goes through the Department of Protection of the Mining Environment, as the Department keeps a record on viable mining sites in the DRC, and discuss the location for mining. When the location is selected by the Department, the Minister of Mines has to agree on the mining location and mining plans of the company, or individual, before granting a mining permit (AfricanMetals, 2016, para. 5). A mandatory investment by companies in the Congolese mining sector is also required. For national companies the investment is placed around US\$ 50,000, as it is US\$ 225,000 for foreigners, with the investments being used to finance the enforcement of the Mining Code and cover costs for potential environmental damages. (Moyroud, & Katunga, 2002, p. 179/23). When land is being granted to companies for mining activities, the people who live and work on the land are to be granted with payment of compensation, as stated in the Mining Code and Regulations in Article 112 (DRC Mining Code, 2002, art. 112).

The legislation is unfortunately riddled with legal holes when considering the relation between the mining lands and the communities working and living there. Many of these mining lands, which have been legally named so by the Minister of Mines, contain unplanned settlements and mining towns that have been established by the artisanal miners without the knowledge of the Minister of Mines. Due to the rapid establishment of these towns, the Minister of Mines does not officially recognize the mining towns as part of the state. Therefore, people who have been living there, some of which have been living there for years, do not receive the rights to the land and are not covered by any security tenure (Amnesty, 2013, p. 10). Furthermore, the Directorate of Mines has not been able to contain the human rights violations made by mining companies in the Katanga province. This is due to the lack of staff and resources, which results in various Canadian and Chinese mining organizations allowing their Congolese miners to be exploited by personnel and work under dangerous conditions (as outlined in paragraph ‘Canadian and Chinese Mining Organizations’ of this chapter).

The Mining Ban

The first noticeable effort to stop the illegal trade of conflict minerals came in 2010, when president Kabila of the DRC implemented the Mining Ban, prohibiting the use of artisanal mining. The ban was to end illegal artisanal mining in the Kivu provinces and the Katanga province, blocking the financial income of rebels. The ban ultimately ended an estimated 80 percent of all mining activity in eastern Congo. However, companies were not included in the ban and were able to continue their extraction activities as major offensives had been launched by the police and Congolese Army to stop armed

rebels and the production of illegal coltan (Sutherland, 2011, p. 17). However, after six months of implementing the Mining Ban, president Kabila lifted the ban as it had served its purpose, according to Minister of Mines, Martin Kabewelulu. After the ban was lifted, more than 50 percent of the artisanal mines in the Kivu provinces came under the control of the Congolese Army after fighting off rebels groups. This became an incentive for the army to exploit the artisanal mines and trade illegal minerals, such as coltan and gold, as many of the Congolese soldiers are underpaid and corrupt (HCSS, 2013 p. 75).

Conclusion

This first section of Chapter Three has explained and discussed the working conditions and the relation to human right violations that are caused by armed groups, such as the FDLR and Congolese Army, and Chinese and Canadian mining organizations. Armed rebels and Congolese soldiers have been known for plundering villages in the Kivu provinces, raping women and forcing children into their ranks and work in artisanal coltan mines. In the process, the armed forces have violated the human rights of Congolese citizens, outlined in the legally bound CCPR, which prohibits the use of forced labor and unlawful violence. The human rights of women have been outline in CEDAW, which states that gender based inequality is illegal and women should be able to receive the same medical and judiciary treatment as men. The final human rights that have been breached by armed forces in the DRC are the minimum age for children to work, which is 18 years old for artisanal mining, and the abolition of forced child labor, which are outlined in the UN Convention, CRC.

However, human rights violations are not exclusive to armed forces in the Kivu provinces, as international mining companies from Canada and China, in the Katanga province, are related to this concerning matter as well. NGO's, such as Rights and Accountability in Development and Canadian Dimension have reported that several Chinese and Canadian mines are neglecting their Congolese miners, by excluding them from basics needs, exposing them to security violence, working long hours, unequal treatment and allowing child labor. Companies such as Anvil Mining and Huachin, are violating the ILO Declaration, which describes the basic human rights of workers and providing the workers with the right of safety gear, medical assistance and forbidding the presence of child labor.

However, the Chinese government has stated that it does not interfere with the private sector and is not monitoring the Chinese coltan mines in the DRC, leaving the enforcement of human rights in the hands of the company owners. The Canadian mining company has been brought before court due to alleged cooperation with corrupt Congolese soldiers in removing murdered coltan miners by truck; this case is still ongoing due to the lack of evidence. This indicates that there are international human rights laws protecting the coltan miners, yet they are barely being enforced by the companies that employ them as there is no supervision of the companies.

The second part of Chapter Three provided an analysis of the legislative attempts made by the Congolese government to control the illegal trade of conflict minerals and the presence of illegal artisanal mines. The first attempt came in 2002, when president Kabila enforced the Mining Code which was to oversee and control all mining activities in the DRC. The Minister of Mines was giving control over the distribution of mining permits, and the Directorate of Mines was to monitor the mines for safety breach and human rights violations. However, due to lack of resources and weak state institutions, the Directorate of Mines has been unable to maintain the human rights violations that have been committed by Canadian and Chinese mining companies. A second attempt came into effect in late 2010, when president Kabila enforced the Mining Ban, forbidding the use of illegal artisanal mines, such as those owned by armed rebels. The Mining Ban initiated a large military offensive by the Congolese Army and police against rebel controlled mines. This has led to the opportunity for the Congolese government's armed forces take control over the illegal artisanal mineral trade themselves after the ban was lifted in early 2011. This has resulted in a continuation of the illegal mineral trade by corrupt government forces, instead of ending the trade and conflict altogether.

VI. Chapter 4: International Community and the United Nations

In this chapter, the legislative attempts made by the international community are explained and discussed. The first part of this chapter covers the United Nations, its MONUSCO Peace Keeping force in the DRC and conflict mineral certification scheme. Secondly, Chapter Four will be focusing on the efforts of the United States and primarily the Dodd-Frank Act, which requires mining companies to verify the origins of their mining minerals. Finally, the European Union attempt at conflict mineral legislation is examined.

United Nations

It is important to note that the international United Nations Human Rights Treaties, that are relevant to this dissertation, have been discussed and elaborated in Chapter Three and shall therefore not be discussed in Chapter Four. The emphasis of the following paragraph is placed on the peacekeeping force, MONUSCO, of the United Nations that is currently present in the DRC.

MONUSCO

Following the atrocities during the 1994 genocide in Rwanda, many Hutu rebels fled to the DRC and have been a major part of violence in the region ever since. As conflict arose in the DRC, the UN established the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) in 1999, which was to stabilize the country (see Chapter One, 'Kivu Conflict'). In 2010 the UN renamed the MONUC, as part of Resolution 1925, naming it the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO). The objective was to monitor and police the armed groups in the DRC to ensure that individuals, involved in the Kivu Conflict, do not violate international human rights treaties. In total, the UN sent a workforce of 22.000 individuals who are to remain in the DRC until mid-2016. (UN Security Council Resolution 1925, 2010, p. 2).

However, MONUSCO has been absent in the illegal mining sector, as the presence of artisanal mines that are controlled by rebel groups is still of significant numbers, and human rights violations of the coltan miners are still occurring (see Chapter Three). By deploying military personnel at conflict mines, armed groups could be scared off, or at the least mine workers could be placed under a form of protective custody to ensure their basic human rights (Interview, De Ridder, 2015 app. 2). However, there are possible other reasons as to why MONUSCO is not directly involved in the illegal mining trade. The first reason might be due to MONUSCO being part of a peace keeping mission, as they are not allowed to engage in combat unless being attacked by an opposing armed group. Confronting a mine that is rebel owned might escalate further conflict. A second reason could be that coltan miners,

and other mineral miners, are considered to be a too complicated sub-group as MONUSCO focuses on the human rights of DRC civilians in general. By moving their aims at the protection of coltan miners, the efforts on the overall protection of Congolese civilians might be jeopardized (Interview, De Ridder, 2015 app. 2). A final reason could be argued that the UN does not intend to interfere with conflict mines as it might lead to the unintentional protection of the illegal mineral trade. For example; should a mine that is under the protection of the UN be selling the coltan illegally, with the UN being unaware of this happening, it could harm the public image of the UN, as it might be reported by NGO's or the press. However, with MONUSCO the UN could bring stability to the DRC, by resolving the high levels of corruption within the government and the Congolese Army. Corruption within the government could be considered as one of the contributing factors to the violation of human rights and violence in the Kivu provinces. Yet, it appears that the MONUSCO peace keeping force is more passive than active, as it has not participated in armed fights or aided in the physical protection of Congolese citizens and soldiers. As soon as enemy shots are fired the UN troops leave the scene of battle, as reported by numerous news reports (Hatcher, J, Time, 2012). It appears MONUSCO is not able to achieve its goals for stabilization before mid-2016, which might lead to the suggestion that the UN should look at other options to try and stabilize the DRC.



Figure 12: MONUSCO soldiers from Tanzania in Sake, North-Kivu.

(Source: MONUSCO, Sylvain Liechti, 2013)

UN iTSCi Programme

In 2010, the International Tin Research Institute (ITRI) developed the iTSCi Programme, which was inspired by the Kimberley Process Certification Scheme and in relation with the UN's OECD Due Diligence Treaty. The Kimberley Process Certification Scheme was implemented in 2000 by the UN General Assembly, to ensure that imported diamonds from Africa do not originate from conflict mines, also known as 'blood diamonds', and finance armed groups. The diamonds are labeled with a plastic tag when conflict-free (Bieri, 2010 p. 51). With the iTSCi, mining minerals, such as coltan, are

certified to ensure they do not originate from countries of conflict, such as the DRC. While established by a UN Treaty, non-UN member states are allowed to become members, as it is a voluntarily process and also functions as a voluntary audit organization for its member states, providing compulsory support to mining companies, certifying the origins of minerals. With the iTCSi, the 3T extractive minerals (tin, tungsten, tantalum/coltan) and gold are to be certified by participating member states in order to remove a significant amount of conflict minerals from the international market. This is done through plastic labels that are placed on the minerals by the countries of origin (Cooper, 2015).

However, in January 2015, the iTCSi's limited effectiveness, within some of its member states, was reported by the UN's Group of Experts and the NGO, Global Witness (UN Security Council p. 40). In the report, the Group of Experts noted that the DRC has no operational traceability systems in the country's gold sector. This has led to illegal smuggling into Uganda in 2014, of which the gold was brought onto the international market and directly exported to the United Arab Emirates (UAE). This indicates that both the DRC and the UAE lack capable methods on gold certification, which the iTCSi is to implement, or are simply not interested in following the scheme accordingly (UN Security Council Resolution 1925, 2010, p. 41). A second failing in the ITRI certification scheme was also reported in April 2015. In the DRC and Rwanda, the Group of Experts was able to obtain the plastic certification tags, which are used to label mineral conflict-free, illegally and without effort on a market. This would allow coltan from an unknown origin to enter the supply chain by an unknown illegal distributor. The final issue worth mentioning from the report, is the involvement of Colonel Mugabo and Captain Mputu of the Congolese Army in the illegal trade of minerals (Dyner, 2015, para 2). In 2014, the Congolese Colonel Mugabo was arrested by the state as his vehicle contained 1,363kg of illegal coltan. Interestingly enough, Colonel Mugabo was released from custody not much later as no further legal actions were taken. As for his vehicle companion, Captain Mputu, no disciplinary action was taken, yet a Lieutenant Colonel who tried to confiscate the truck had been suspended for trying to do so. These are evident examples of corruption (Dyner, 2015, para. 3).

The future success for the iTCSi is a questionable one. First of all, the iTCSi is a voluntary certification scheme which requires companies to join out of their own interest as it is not bound by a mandatory law. Secondly, the compliance costs of coordinating and regulating all trade of 3T and gold could become significantly high. Much like the Dodd-Frank Act, this could lead to negative impact on the economy of the DRC. Thirdly, unlike diamonds, conflict minerals such as coltan are less susceptible to consumer boycotts. Diamonds are considered a luxury item which holds a high emotional value as it is visible, making the industry vulnerable to consumer boycotts. Conflict minerals are used in technological devices, making their value in the final product insignificant (HCSS, 2013, p. 79). The last obstacle is the supply chain of conflict minerals. The diamond market is mostly dominated by Belgium De Beer, a diamond company, while the coltan industry is far more

scattered. This is in regard to all the violence near coltan mines, corruption in the DRC and illegal trade of minerals by international suppliers, such as China, making it more difficult to trace the origins of coltan when compared to diamonds.

United States

In 2010, the United States (U.S.) introduced the Dodd-Frank Act by President Barack Obama, which was approved by the Security Exchange Commission (SEC) on August 22, 2012. This is an attempt to reduce the use of conflict minerals and thus reducing the intensity of armed conflict in countries such as the DRC (HCSS, 2013 p. 79) In Section 1502 of the Dodd-Frank Act, the U.S. legislated that mining companies are required to certify mined minerals in order to avoid conflict minerals that originate from artisanal mines that are involved in the funding of wars and human rights exploitations, in the DRC and other countries of conflict (CFTC, 2014). A mining company that is located in the DRC, or other countries of conflict, is required to issue an objective audit report to the SEC on how the company ensured no human rights violations were made during the extraction and trade of minerals in countries of conflict. The minerals that could be of conflict origin, as mentioned by the Dodd-Frank Act, are tin, tungsten, tantalum (coltan) and gold. These are also known as the '3T's and gold' (Sutherland, 2011 p. 17). However, the Dodd-Frank Act only applies to companies that hired private security forces of American origins, meaning that the Act does not apply to mining companies that are not involved with private security forces. The Dodd-Frank Act is referred to as a legislated U.S. law, however, should a mining company violate the terms of the Act, the U.S. Supreme Court is incapable of prosecuting the mining company, as the Act does not directly ban companies from mining conflict minerals as it is a disclosure requirement. This indicates that the Dodd-Frank Act is a 'naming and shaming' law, publishes public reports on the violations that have been made by a mining company. However, as the SEC covers more than 6,000 companies and organizations, the Dodd-Frank Act should not be taken lightly, as many companies would rather not be linked to human rights scandals and be included in a public report, as that might damage their image. (CFTC, 2014) As of August 2015, the Dodd-Frank Act has been responsible for successfully turning 141 conflict mines into conflict free and safe mining sites, as concluded by the human rights NGO, Enough Project. As of October 28, 2015 out of the 316 companies, that are covered by the Dodd-Frank Act, 203 have passed their human rights audit reports, marking the total of conflict free mines at 60 percent worldwide (Enough Project DF, 2015).

However, the Dodd-Frank Act also instills long term concerns, such as the costs for maintaining the Act. According to the SEC, the estimated costs will initially be US\$ 3 billion to US\$ 4 billion on an unspecified long-term basis. As for the annual costs for the enforcement of the Dodd-Frank Act are estimated to be between US\$ 207 million and US\$609 million. However, this will eventually lead to sharing the costs with various stakeholders, consumers and companies. Furthermore, the costs will

most likely be compensated by raising the market price for electronic products and increasing taxes on the import and mining of extracted minerals (HCSS, 2013 p. 80). It will undeniably impact the Congolese coltan miners as well, as the prices paid by companies for coltan and other 3T minerals will most likely be lower, resulting in a lower income for the artisanal miners (HCSS, 2013, p. 80). With such high costs for maintaining the Dodd-Frank Act, it raises concerns on the capabilities of the Act of ensuring a long-term decrease in violence, in countries of conflict. Moreover, the Act might negatively impact the artisanal miners of the DRC, shutting off their income. However, on the other hand the decrease in coltan (and other minerals) prices could cripple armed groups, as they too will have a harder time selling mined minerals. However, it is unlikely that the Dodd-Frank Act will discourage armed groups from finding other methods to finance their cause, as outlined in Chapter Two. This, in turn, could lead to a *de facto* ban on conflict minerals in order to suppress the Congolese violence. If this is to be the case, many companies might no longer be interested in investing in the DRC as it would make it more difficult for companies to compete with other international mining organizations due to the strict regulation of the Dodd-Frank Act as they are required to verify the origins of their minerals. This would cost more than using illegal means of mining, shying away the international mining business and thus the potential income for the DRC's mining sector.

Other U.S. Laws

Before the Dodd-Frank Act originated, the then senator Barack Obama promoted the Democratic Republic of Congo Relief, Security and Democracy Promotion Act (DRCRSDA) in 2006. The Act was developed to put a halt on the illegal mineral trade by states in the US. If a state would continue their efforts in the conflict mineral trade, sanctions will be imposed by the government. Yet getting a company prosecuted has proved difficult as evidence is required to support acquisitions (Sutherland, 2011, p. 19). Another U.S. Act that helps to prevent human rights violations against coltan miners is the Alien Tort Claim Act (ACTA). (Sutherland p.19) With this Act of 1980, foreign citizens are allowed to seek remedies for human rights violations in U.S. Courts that have been committed by US companies in the DRC. The complainant would need to show proof of the company processing conflict minerals or in aiding the violations of human rights in Congo. In practice, however, it has been difficult for individuals to provide sufficient evidence for such claims.

The governments of the U.S. and the United Kingdom (UK) have established the Voluntary Principles on Security and Human Rights (VPSHR also referred to as 'VP') which aids organizations in the extractive and energy sectors with their human rights policies. The VP allows companies to be audited by third-party human rights NGO's that will file an annual report on the company's efforts and issues concerning human rights within their business. (VP, 2000, p.1) The process is compulsory and should a company's audit result in a negative report, then the consequence is nothing more than public

‘naming and shaming’ companies, as the coltan supply would become more limited with the complete disappearance of conflict mines (IPC, 2015, p. 1)

European Union

Talks about an European Union (EU) law, covering the trade of conflict minerals, first started in February 2011, when the European Commission (EC) opened the debate on challenges for member states to ensure conflict free minerals on their national markets. This is because the EU and its member states are reliant on the import of 3T minerals, with China being the most important supplier of minerals to the EU (Sutherland, p. 20). As of February 2016, the EU is yet to adopt a legislative law concerning the trade and use of conflict minerals. Currently, the EU perceives the Dodd-Frank Act as a prime example for its own legislation, yet taking a slightly different approach by implementing a voluntarily due diligence scheme in order to avoid the obstacles the Dodd-Frank Act is facing, such as the incompliance of mining companies (IPC, 2015, p. 2, para. 4). With the Dodd-Frank Act, mining organizations that are invested in the DRC, are mandatorily imposed by the Act, while as the EU believes that a voluntary scheme would provide benefits for the DRC, as foreign importers and production organizations are to be aided by the EU in establishing a conflict mineral-free trade (EuroParl, 2015). Also, the scheme would exempt the trade and use of recycled and scrap minerals, as their origins have already become untraceable. This would also give businesses more incentive to re-use scrap minerals. The legislation should also aim to encourage companies to continue their investments in the DRC as it does not enforce mandatory schemes such as the Dodd-Frank Act, by naming and shaming, which would result in a *de facto* ban on minerals such as coltan. However, the legislation might lack any credibility as the mining companies are not enforced in any way to act by the EU Law, as it is completely reliant on the good will of mining companies were they to report the use of illegal mining minerals. As of March 2016, the legislation is still in draft form, while the EU member states are still coming to an agreement on the final version of the law as many more elements are to be outlined, such as costs, enforcement rights and personnel (SM, 2015, para. 3).

Conclusion

While the UN has issued a peace keeping force in the DRC, called MONUSCO, to monitor the human rights violations inflicted by the Congolese Army and the armed groups on the Congolese citizens, it has been a passive attribute in the process of improving the conditions of civilians. Due to being a peace keeping mission, the UN soldiers are not able to partake in any armed conflict and therefore are not able to provide military aid to combat armed rebels at artisanal mines. There are other possible reasons to why MONUSCO does not provide aid to abused artisanal miners, such as the unintentional protection of an illegal coltan mine. Furthermore, the UN iTSCi Programme, which serves to certify the mined minerals by international companies, is lacking in credibility as several violations have been

committed by members states in recent years. The iTSCi Programme is depended on voluntary cooperation of member states and mining organizations and are not required to comply by the iTSCi rules as it is not a lawfully binding treaty.

The American Dodd-Frank Act is a legislation that has been introduced by President Barack Obama in 2010, which required mining companies to file an audit report to the Security Exchange Commission, proving that they have not been involved in the trade of conflict minerals and the abuse of Congolese artisanal miners. The Dodd-Frank Act has been successful by some merit, as it turned 60 percent of conflict related artisanal mines in Africa, into conflict free sites. However, the Dodd-Frank Act is not enforced by law and is therefore unable to punish companies that have been active in the illegal mineral trade. Furthermore, to keep the Act enforced, an annual cost, estimated to be as high as US\$ 600 million, is needed. These costs could eventually be placed upon consumers through the increase in price of electronics, and for companies through the rise in import taxes of mined minerals. Other U.S. laws such as ACTA and the VP principles are dedicated to voluntarily aid companies in keeping them conflict mineral-free. Again, this is not mandatory and has not juridical consequences should a company violate the rule of either, being nothing more than ‘naming and shaming’ treaties.

The European Union currently lacks any form of conflict mineral related legislation. The European Commission has been debating since 2011 to establish such as law, which resembles that of the American Dodd-Frank Act. There are not many details on the legislation, but it is to follow the Dodd-Frank Act with the exception of the mandatory audit report, which is to be filled by mining companies. Instead, the EU law will focus on making it compulsory to EU member states and aid companies, much like the previously mentioned ACT and VP treaties, in keep their business conflict mineral free, seemingly becoming another ‘naming and shaming’ law which does not provide much incentive for mining companies to exclude illegal mineral.

It is evident that the international community and the UN are concerned with the use of conflict minerals and the abuse of miners in the DRC and other regions. However, none of the laws, treaties and acts appear to be of much significance, with the possible exception of the Dodd-Frank Act, as they rely on the cooperation of mining companies. If the international community and UN are to end the use of conflict minerals, such as coltan, and improve the living conditions of artisanal miners, like the coltan miners in the DRC, a more active stance is required: Laws and possibly military forces are to be enforced by laws, and more importantly, are mandatory to mining companies and have legal consequences if a mining company should not abide.

VII. Conclusion

This dissertation analyzed the living and working conditions and the human rights of artisanal coltan miners in the Democratic Republic of Congo, in relation to current armed conflict and illegal trade of conflict related minerals, such as coltan. It furthermore examined the political, cultural and historic events in Congo and the human rights laws that are applicable to the violations committed by the Congolese state, armed rebels and mining companies.

The Democratic Republic of Congo

As presented in Chapter One, the DRC has been marred by conflict after becoming independent from Belgium and the 32-year rule of president Mobutu. It was during the rule of Mobutu that the levels of corruption rose within the Congolese government and economy collapsed, affecting every institution and reaching its peak with the presence of the current president, Kabila. Appointing only people close to him in the judicial institutions and Government's banks, president Kabila has gained almost total control of the state. The DRC is rich with natural resources such as coltan, gold, copper and tin, but has not been able to fully control the mining industry, due to constant conflict which has been caused by political differences and invading countries and rebels. It is evident that the Congolese government is in a very poor state on many levels and needs to be stabilized in order for it to function properly. However, this is no easy task as corruption, conflict and economical issues are not easy to mend as they are intertwined.

The Mining of Coltan

Coltan is a valuable mining mineral which is mostly mined through artisanal means. Once coltan is refined and processed it is used as a tantalum-capacitor, which makes it invaluable for the use of modern electronic devices such as cell phones and jet engines. However, the global coltan industry is a scattered one. While there are rich coltan ores in every continent, with Antarctica being the only exception, not all coltan rich countries are active in the mining of coltan. In South America, Brazil is the only prominent country in the mining of coltan and the single largest coltan provider in the world. Columbia and Venezuela also contain rich ores of coltan, but are currently not actively involved in the mining of coltan as many of the mines are plundered by armed rebels. Australia, Mexico and the United States have ceased their mining activities to the low demand and the high expenses of coltan mining. Many Canadian mining businesses relocated to the DRC in the Katanga province as the mining of coltan is less expensive in the DRC. The same applies to China, which is the single largest refiner and provider of produced coltan.

The mining of coltan is mostly done by artisanal means and Canadian and Chinese mining organizations. The mining industry provides the Congolese government with 64 percent of revenue, with the coltan mining peaking during the coltan booms of 2001 and 2010. While various NGO's

argue that 80 percent of the world's coltan is found in the ground in the DRC, this number is significantly lower and is in reality not higher than 6 percent. The (illegal) trade of coltan is often done by armed groups and small business men on a micro-level. In order to avoid Congolese mineral taxes, the miners use trade routes into Rwanda and sell the coltan from there as Rwanda does not hold taxes over mined minerals. Most of the illegal coltan is related to financed armed groups and is 'banned' by international markets, with the exception China, which blends all the various coltan together, making the illegal coltan untraceable.

Some NGO's have also argued that the mining of coltan has been the cause for conflict in the DRC resulting in the First and Second Congo War. However, the role of coltan in the First Congo War was non-existent, as it was not yet actively mined. As for the Second Congo War, which was caused by invading Rwandan forces to fight the Kabila regime, has only led to the illegal use of coltan by the invading Rwandan forces, as they remained in the Kivu and Katanga provinces of the DRC, which are rich with coltan ores. Furthermore, the Kivu Conflict directly followed the Second Congo War. While coltan was of financial importance to armed groups in order to continue fighting for their cause, it was yet again not the reason for conflict, but instead was caused by Rwandan rebels. Finally, the amount of coltan used for the trade of conflict minerals is an estimated 9 percent, with minerals such as gold and copper being traded off more commonly.

Working & Living Conditions and Human Rights Violations

An estimated 500.000 coltan miners are currently active in the DRC, with the total mining sector being estimated to support up to 16 percent of the total Congolese population. Many of the artisanal coltan miners are exposed to the abuse and extortion of armed groups, such as the FDLR and the Mai-Mai. Congolese civilians are often rounded up by the armed groups, raping the women and girls, with many of the men and boys being forced to either join their ranks or work in artisanal coltan mines. These horrific events are also enforced by the Congolese Army, which owns more than 50 percent of the mines in the Kivu provinces, and purposely arrest civilians without legal cause, forcing them to pay off their fines by working in artisanal mines. By abusing the Congolese civilians, the armed rebels and Congolese Army have violated the International Covenant on Civil and Political Rights of 1966 which covers the human rights of civilians, such as right to life, freedom of living and a ban on enslavement. By abusing and sexually harassing women, and the use of child labor, the armed groups are also violating the UN Convention of Elimination of All Forms of Discrimination Against Women. This act protects the rights of women (i.e. gender equality, fair treatment, right to health and safety) and in the cause of child labor the UN Convention on the Rights of the Child of 1973 is applicable, as it covers the rights of children, such as the banishment of child labor.

However, the abuse of artisanal miners is not exclusive to armed groups and also occurs at mines of Chinese and Canadian mining companies in the Katanga province. The workers often obtain serious injuries due to bad safety measures and clothing, they work long hours and are exposed to violence by security officers. While the human rights violations in the previous paragraph also apply to these mining companies, the Canadian and Chinese mining companies also violate the UN International Labor Organization Declaration on Fundamental Principles and Rights at Work of 1998, which covers the protection of miners (i.e. health measures, no discrimination, and work related abuse). While China is aware of the violations, it stated that it will not monitor their mining companies in the DRC. The Canadian mining organization Anvil Mining has been accused of connections with armed groups. However, the case is currently still ongoing due to the lack of evidence in order to make a strong case.

The Congolese government issued the Mining Code in 2001, after the first coltan boom, which laid down the legal framework for the use of coltan mines by private parties. The Mining Code, along with the Congolese Constitution, declared all of the land in the DRC to be state owned, along with its natural resources. Companies and individuals who want to mine in the DRC have to apply for a mining permit through the Minister of Mines. For national companies the investment for a permit is placed around US\$ 50,000, while the price is as high as US\$ 225,000 for foreign companies. The investments are to be used to finance the enforcement of the Mining Code and cover costs for potential environmental damages caused by mining. The Mining Code contains a lot of loopholes and has been unable to maintain the safety and protection of artisanal miners in company owned mines due to the lack of resources and staff and corruption.

The most recent effort made by the Congolese government to stabilize the mining sector came in 2010 in the form of the Mining Ban. The ban was issued by president Kabila in an attempt to end the use of illegal artisanal mines and the abuse of Congolese civilians by the hands of rebels. The ban was not applied to company-owned mines and caused the Congolese Army to take over rebel mines by force. The result was that the illegal mineral and coltan trade did not come to an end, but is now managed by the Congolese Army in the Kivu provinces. In early 2011, the Mining Ban came to an end due to the negative impact by the Congolese Army and an economical collapse of the mining sector.

Currently, the efforts made by the Congolese government to contain the human rights violations of coltan miners and the use of illegal artisanal mines have been in vain. The Congolese government is still dominated by corruption, which have made the state institutions weak and unreliable as most of the underpaid staff participates in bribery or illegal mineral trade. If the Congolese government is to end the human rights violations and illegal coltan trade, president Kabila must end his own form of corruption by removing his clientelistic methods, by investing in the economy, reforming the Congolese Army and establish international relations to end the internal conflicts. Once that has been

achieved, only then will the DRC be able to move forward and improve the living conditions of coltan miners and civilians with the use of a stable government.

International Community and the United Nations

In the final chapter, the attempts made by the United Nations and other international communities to abolish the illegal coltan and mineral trade have been examined. The UN has remained active in the DRC since the Second Congo War with a peace keeping force known as MONUSCO, which, as of 2010, consists of 22.000 individuals, including armed forces, to monitor and observe possible human rights violations during the current Kivu Conflict between the Congolese Army and armed groups. However, the peace keeping force is not allowed to intervene during conflict, indirectly permitting the abuse of human rights to occur at the artisanal mines where coltan miners are extorted by the armed groups. With such a present force, the UN could be able to protect the coltan miners and artisanal mines from being annexed by armed forces. However, it is possible that MONUSCO is not allowed to aid artisanal miners, be involved in combat or interfere with coltan mines as it might lead to the unintended protection of a conflict mine. Moreover, the MONUSCO force appears to be unable to stabilize the Congolese civilization before their set goal, which is mid-2016, as conflict and human rights violations are still present. Furthermore, the UN iTSCi Programme, which is developed for international mining companies to certify their mined mineral is not of conflict origins by labeling them with plastic tags, has been deemed ineffective by numerous NGO's. Companies involved with minerals are not forced to cooperate with the program, but instead can join voluntarily. This has led to the abuse of the system, such as fake labeling tags and illegal transportation of coltan by Congolese state officials.

The American Dodd-Frank Act was introduced by President Barack Obama in 2010 and required mining companies the file an audit report to the Security Exchange Commission. This is to ensure that are not involved in the trade of conflict minerals and the abuse of Congolese artisanal miners. The Dodd-Frank Act has been successful by some merit, as it turned 60 percent of known conflict related artisanal mines into conflict-free mines, in countries such as the DRC. However, the Dodd-Frank Act is not without issues as the act is not enforced by any judicial institution, meaning that failure of filling an audit report has no serious consequences for a company. Moreover, to keep the act enforced, annual costs are estimated to be as high as US\$ 600 million for it to function. These costs could eventually be shared with consumers and companies by increasing the price of electronics and raising the import taxes on mined minerals. This has led to the Dodd-Frank Act to be a 'naming and shaming' legislation, meaning it can only provide companies a bad reputation through the use of public reports, if they are to use unregistered illegal minerals. Other U.S. treaties such as ACTA and the VP principles are dedicated to voluntarily aid companies in keeping their products conflict-mineral free.

Again, this is not mandatory and has no juridical consequences should a company violate the rule of either, being nothing more than ‘naming and shaming’, much like the Dodd-Frank Act.

Currently, the European Union has no legislation prohibiting the use of conflict minerals or the use of illegal coltan. In 2011, the European Commission issued a statement in which it became evident that the EU is reliable on the minerals, such as coltan and tin, from countries outside the EU. From there on, it has been discussed to incorporate a legislation which is similar to that of the Dodd-Frank Act. While the debate on the legislation continues, it will differ from the Dodd-Frank Act by making the audit reports by (voluntarily) participating mining companies compulsory instead of mandatory. While the requirements and rules for this legislation are not yet final, it appears that the EU will be enforcing its own ‘name and shame’ law, as the violation of the legislation will have no judicial consequences for companies.

Conclusion

The violations that are committed by international mining companies, armed rebels and the Congolese Army are a result of weak state institutions within the Congolese government. This is due to high levels of corruption which have been maintained by the current President Kabila. Despite the efforts made by the Congolese government, with the enforcement of the Mining Code and Mining Ban, the state has only weakened as the institutions that are responsible lack the essential personnel and resources. Furthermore, many government officials are corrupt and participate in bribery and illegal mineral trade. This results in the continuation of conflict in the DRC and the abuse of the human rights of coltan miners and the Congolese civilization, with the exception of those supporting President Kabila. If the Congolese government was to abolish all these issues, it needs to eradicate the corruption, starting with President Kabila, who needs to end his clientelism and employ qualified individuals into government ranks and invest in the economy and banks instead of robbing it for personal gain.

The international community, especially the UN, could be of assistance in this matter but not with the current methods. The attempts to maintain and establish human rights treaties, sending peace keeping forces and developing certification schemes have all been in vain in improving the living and working conditions of Congolese coltan miners and the DRC population. These methods all lack credibility, as they are not enforced by a judicial court with the capabilities of detaining criminals or punishing mining companies for violating human rights. If the UN wants to improve the living and working conditions in Congo, it should employ more active matters with juridical power since ‘naming and shaming’ treaties and acts do not work as no individual or company is bound by those laws, as they are voluntary and lack legislative consequences for breaking them.

It is unlikely that an international law, with juridical power and legal consequences for the violation of human rights of artisanal miners and the use of ‘conflict coltan’ and illegal mineral trade, is to be considered by the UN or the international community in the near future. Such a law requires full cooperation and an international agreement of the DRC, the UN, EU, mining companies and other nations and organizations involved in the coltan debate. Furthermore, such law would require a large sum of funds, social agreements and international cooperation, something which the current voluntarily treaties and international human rights laws have issues with achieving and maintaining. These issues would evidently occur with an international juridical law as well. Moreover, for the UN to improve the living conditions of coltan miners, a stable Congolese government is required, as the Congolese state is still responsible for the wellbeing of its citizens. It is evident that the current Congolese government is unable to end armed conflict, rebuild society, end the illegal coltan trade and thus improve the living and working conditions of coltan miners. It is also evident that the DRC requires the combined aid of the international community to help rebuild its society. The UN and other international communities are capable of doing so together, however, it appears the DRC, illegal coltan trade or the wellbeing of coltan miners is currently not high on the priority list despite some attempts made with voluntary treaties and acts.

Coltan might be an invaluable mineral for modern electronics, it should not be considered more valuable than the wellbeing and life of a person. Therefore, the Congolese government, UN and other international communities, that rely on coltan from countries such as the DRC, are to take this matter serious as the lives of coltan miners depend on them.

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Appendices

1. Figures

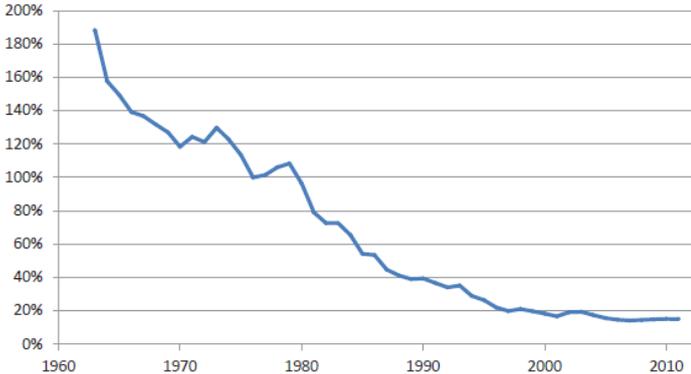


Figure 1: GNI per capita in the DRC as a percentage of GNI per capita in Sub-Saharan Africa. (Source: HCSS, p.30, 2013)

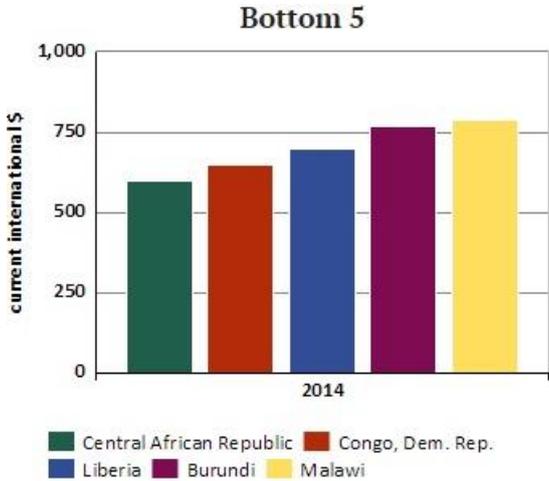


Figure 2: GNI per capita for the 5 lowest performing countries as of 2014 (Source: KNOEMA, GNI PPP, 2015)

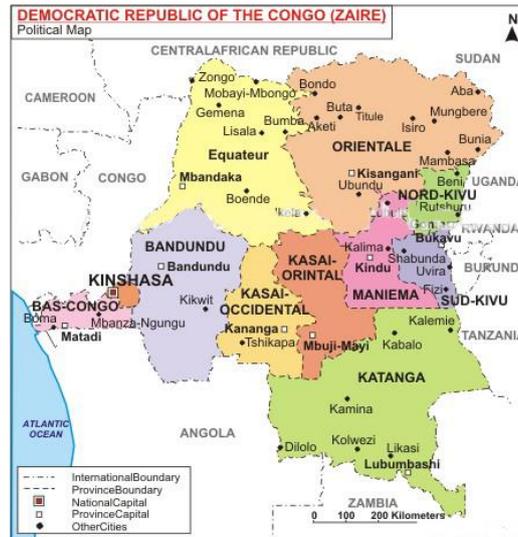


Figure 3: Map of the Democratic Republic of Congo
(Source: focusafrica.gov, 2015)

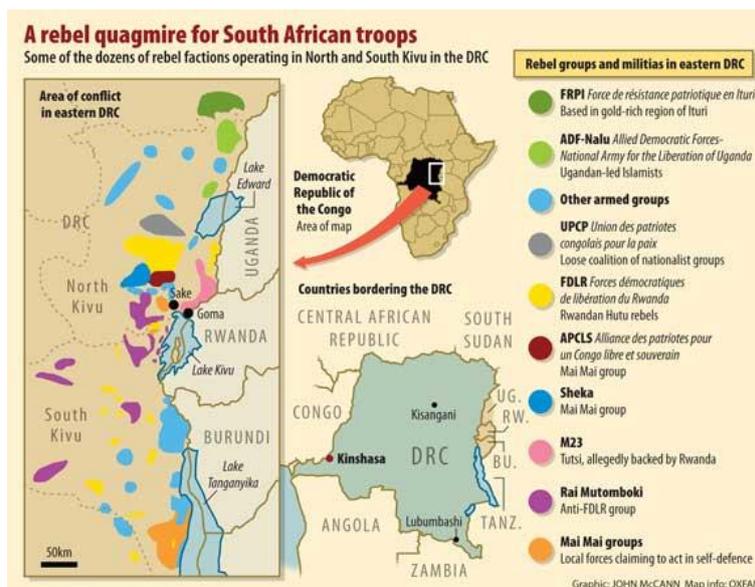


Figure 4: Rebel groups in the DRC
(Source: OXFAM, McCann, J., 2012)

Year	Ranking	Countries ranked	Rating (00 to 100)	
2011	168	182	20	-
2012	160	174	21	-
2013	154	175	22	-
2014	154	174	22	-
2015	147	168	22	-

Figure 5: DRC corruption levels measured the Corruption Perceptions Index in the past five years
(Data provided: Transparency.com, CPI Overview 2015)

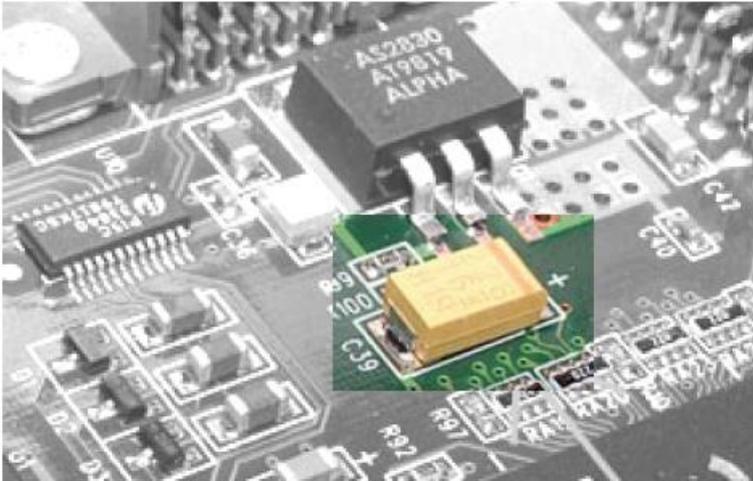


Figure 6:A tantalite-capacitor unit
(Source: Ma, 2014 p. 5)



Figure 7: A Congolese coltan miner displaying raw coltan.
(Source: allafrika.com, 2015)



Figure 8: A crowded artisanal conflict coltan mine in North-Kivu
(Photo provided: MONUSCO/Sylvain Liechti, 2014)



Figure 9: A Congolese soldier managing child coltan miners in North-Kivu
(Photographer 'unknown', cookiessound.com, 2011)



Figure 10: Congolese child coltan miners in a Congolese Army controlled mine.
 (Source: consolglobe.com, 2012)

Chinese Mining Organizations	Canadian Mining Organizations
Huachin	Anvil Mining
Congo Dong Bang Mining	Katanga Mining
Congo Loyal Will Mining	
COTA Mining	
Emmanuel Mining	
Feza Mining	
Jia Xing	
Song Hua	

Figure 11: Chinese and Canadian Mines related to human rights abuses in DRC
 (Information provided by: Goethals, S., Okenda., & Mbaya., 2009 and Feeny & Lamb, 2011).



Figure 12: MONUSCO soldiers from Tanzania in Sake, North-Kivu.
(Source: MONUSCO, Sylvain Liechti, 2013)

2. Interview Marjolein de Ridder

Wednesday 16 December 2015 16:00 – 17:15 @ HCSS

1. Kunt u in het kort wat over uzelf vertellen en uw functie binnen HCSS en wat uw dagelijkse taken zijn?

De Ridder: *‘Ik ben strategisch analist, sinds 2010 werk ik hier. Mijn achtergrond is politicologie, internationale betrekkingen en diplomatie. En sinds ik bij de HCSS werk heb ik mij gespecialiseerd in de geopolitiek van grondstoffen, dus ik kijk met name wat er gebeurt op grondstoffenmarkten en hoe landen ook beleid formuleren in antwoord op veranderingen op grondstoffenmarkten. Dat doe ik met name dus uit geopolitiek perspectief, waarin de veiligheidsdimensie centraal staat, maar uiteraard zijn er ook relaties met geo-economische vraagstukken en duurzaamheids vraagstukken. En ik ben tevens projectleider hier bij HCSS van het ‘Centre of Expertise on Resources’ en daarbinnen verlenen wij eigenlijk strategisch advisering aan de overheid en het bedrijfsleven en NGO’s, die vragen hebben op het gebied van grondstoffen.*

Jim: *‘Oke’, dat verklaard dan waarschijnlijk ook waarom u projectleider was van het verslag ‘Coltan, Congo & Conflict’ in 2013.’*

De Ridder: *‘Ja, inderdaad’.*

Jim: *‘Dat verklaard dan inderdaad waarom u hier projectleider van was, voor het POLINARES project van de Europese Commissie... (zie vraag 2)’*

2. In 2013 was u de projectleider voor het HCSS rapport ‘Coltan, Congo & Conflict’ als onderdeel voor het POLINARES project van de Europese Commissie. Hoe bent u betrokken geraakt bij dit project en waarom dit thema gekozen is als onderwerp voor het rapport?

De Ridder: *‘Ja, goeie vraag. Nou POLINARES staat voor ‘Policy on Natural Resources’ en dat was inderdaad een project van de Europese Commissie, dat kennis moest ontsluiten op gebied van competitie, nou concurrentie eigenlijk, tussen landen op het gebied van ‘security’ van olie, gas en mineralen. En dat was een meerjarig onderzoeksprogramma waarbij verschillende Europese onderzoeksinstituten met elkaar samenwerkte. Binnen dat*

onderzoeksconsortium lag de nadruk wel vrij sterk op olie en gas en wat minder op mineralen. Nou, en als HCSS hadden wij juist die expertise meer op mineralen en met name ook op de veiligheidsdimensie van die toenemende concurrentie.'

Jim: *'Misschien juist omdat het nooit besproken werd, coltan?'*

De Ridder: *'Ja, toentertijd was er nog niet zo heel erg veel aandacht voor de geopolitiek van grondstoffen en ook de toenemende vraag van grondstoffen en wat dat ook betekenden in het licht van de veranderende machtsverhoudingen in de wereld. In 2010 was er opeen gegeven moment was er een incident tussen China en Japan, China kondigde een handelsembargo af op zeldzame aardmetalen tegen Japan, dat was eigenlijk de eerste keer dat er in de recente geschiedenis, laat ik het maar zo zeggen, dat er zo'n handelsembargo als een politiekinstrument werd ingezet. Daarmee kwam het onderwerp van 'security of supply' van mineralen ineens heel hoog op de agenda te staan. Binnen de context van POLINARES wilden wij als HCSS een bijdrage leveren aan het onderzoek door onze veiligheidsexpertise en onze geopolitiekexpertise aan te bieden binnen dat consortium. En toen hebben wij de casus van coltan gekozen omdat het zo'n sterke veiligheidscomponent had en omdat er in die tijd veel over werd geschreven en er was veel aandacht voor in de media, dus we hadden toen besloten om dat onderwerp multidisciplinair te onderzoeken. HCSS met geopolitieke kennis en veiligheid, de kennis op het gebied van geologie kwam van een Duitse organisatie, BGR (Bundesanstalt für Geowissenschaften und Rohstoffe), en er was nog een andere organisatie, de Raw Materials Group uit Zweden die veel kennis had van mijnbouw en ook veel in Afrika zijn geweest, en dan hadden we nog het Fraunhofer Instituut en zijn brachten meer hun kennis van de technologie en de toepassing van de mineralen binnen.'*

Jim: *'Hebben jullie zelf contact opgenomen met hen, of waren zij er op aanraden van de Europese Commissie zelf?'*

De Ridder: *'Wij waren onderdeel van het onderzoeksproces, dus hoe dat gaat is dat de Europese Commissie een soort onderzoekstender uitschrijft, voor een onderzoek en allerlei partijen kunnen dan daar zich voor aanbieden. Zodoende werd er dus een onderzoeksconsortium gevormd, ja er zat zeg maar best veel organisaties in, waaronder BGR, Raw Materials Group en Fraunhofer en HCSS. Dus wij waren dus een subgroepje van dat onderzoeksconsortium en wij hebben deze paper geschreven, dus onderzoeksrapport, als één van de werkpakketten, dus als één van de 'deliverables' van dat grote project.'*

Jim: *'Nou oké, dat is best indrukwekkend eigenlijk. Aangezien jullie gekozen zijn uit allerlei andere organisaties en vele partijen.'*

De Ridder: *'Die veiligheidsdimensie blijft doorgaans best onderbelicht heel veel mensen die naar grondstoffen kijken, kijken vanuit een macro-economisch perspectief ernaar, wat gebeurt er met de vraag en aanbod en de prijs. Wij kijken heel nadrukkelijk naar die veiligheidsaspecten en de beleidsaspecten.'*

Jim: *'Dat is interessant dat u dit zegt, aangezien ik zelf tijdens mijn onderzoek hoofdzakelijk tegen dit aanloop, het gaat vaker over de economische kant, en af en toe wordt er wel iets gezegd over 'het is ook naar voor de mensen die betrokken zijn'. Maar het gaat hoofdzakelijk over de economische kant.'*

De Ridder: *'Ja zeker.'*

3. Hoe hebben u en uw collega's dit thema onderzocht (methodologie)? Interviews? Bezoeken aan instanties en bedrijven? Veldonderzoek in Congo?

De Ridder: *'Ja het was voornamelijk deskresearch wat wij hebben gedaan voor dit onderzoek. Dus we hebben eigenlijk vrijwel de gehele analyse gebaseerd op primaire en secundaire bronnen, we zijn niet zelf naar de DRC geweest maar wij hebben wel data gebruikt van bijvoorbeeld NGO's die daar veel veldonderzoek hebben gedaan, die bronnen kan je ook teruglezen in het rapport. Maar we hebben niet zelf lokaal onderzoek verricht. Interviews hebben we een beetje informeel binnen het marge van onderzoekconsortiums en conferences gehouden. Maar meer informeel om dingen te toetsen in plaats van een manier om echt doelgericht data te verstrekken.'*

Jim: *'Meer een beetje peilen bij andere instanties die er iets mee te maken hebben, die een mening er over hebben of dergelijke.'*

De Ridder: *'Ja, precies. Dus het was met name dus echt deskresearch.'*

4. In het 'Coltan, Congo & Conflict' rapport werd gemeld dat de ophef, die wordt veroorzaakt door NGO campagnes, over het aantal slachtoffers door barre omstandigheden in de coltanmijnen van Congo sterk overdreven is. Hoe komen de NGO's aan deze informatie, als deze inderdaad niet klopt? Zelf 'verzonnen'?

De Ridder: *'Nou zoals je het hier in deze vraag formuleert, dat is niet helemaal de strekking van ons rapport. Dus wat wij stellen is eigenlijk dat die eenzijdige nadruk op coltan, dat die overdreven is, en dat de stelling dat coltan mijnbouw de reden is voor al het leed en ellende in de DRC, daarvan zeggen wij dat is een claim die geen stand houdt. Wat zij zeggen is dat het conflict niet alleen door de mijnbouw veroorzaakt wordt maar een veel groter geheel, een complexer geheel aan factoren, dat is 1 punt. En ten tweede stellen wij dat sommige cijfers die NGO's naar voren hebben gebracht, dat die niet correct waren. Sommige cijfers zijn inderdaad sterk overdreven en soms zelfs niet eens mogelijk. En daarnaast merken wij op dat soms de betrouwbaarheid van de data die NGO's naar buiten brengen dat die moeilijk te controleren is. Dat heeft er mee te maken dat er in de DRC weinig officiële instanties zijn die data bijhouden, et cetera, dus het veelal om schattingen gaat. Dus over productie, export, hoeveel er gesmokkeld wordt dat zijn altijd data die je met een grote korrel zout moet nemen. Dus dat was duidelijk onze grote boodschap, van sommige feiten, sommige cijfers kloppen niet, de eenzijdige nadruk op coltan is onterecht en zo'n conflict draait niet alleen maar om mijnbouw maar heeft veel diepere en historische oorzaken.'*

Jim: *'Ja inderdaad, gezien het conflict in Congo al jaren al aanwezig was ver voor überhaupt coltan besproken werd of echt ontdekt was.'*

De Ridder: *'Ja precies, en dat vonden wij heel erg belangrijk om dat te benadrukken, omdat die analyse direct implicaties heeft voor het beleid, hoe je het beleid gaat voeren wat gericht moet zijn op hoe je het uiteindelijk gaat oplossen van het conflict. Nou, als je iets zegt van, iets is de oorzaak van een conflict en je gaat beleid formuleren probeer je beleid te richten op verhelpen van die oorzaak, maar als eigenlijk die analyse van wat de oorzaak is dus niet helemaal juist is kan je ook geen goed beleid creëren om die oorzaak van zo'n conflict weg te nemen.'*

Jim: *'Ja en dat kan dus ontstaan door die misconcepties'*

De Ridder: *'Ja en dat was dus onze bedoeling van ons rapport, omdat te voorkomen.'*

- 5. In de documentaire 'Blood in the Mobile' toont de Deense filmregisseur Frank Piasechi Poulsen het leven van jonge mijnwerkers in illegale coltanmijnen in Congo. Hij vertelt hierin dat in de periode van 2005 t/m 2010 al meer dan 4 miljoen mensen zijn omgekomen door de illegale coltanhandel en dat er in bepaalde illegale mijnen 15.000 t/m 25.000 mensen werken onder de druk van gewapende rebellen. Wat zijn uw gedachten omtrent deze uitspraken?**

De Ridder: *'Ik denk dat het op zich goed mogelijk is, ik zelf, zoals ik al zei heb daar geen veldonderzoek verricht. En ik weet ook niet precies wat zijn methodes zijn geweest om tot die cijfers te komen, dus ik denk dat het wel goed mogelijk is omdat we weten dat die rebellen inderdaad op grote schaal gebruik hebben gemaakt van dwangarbeid en dat mijnbouw een heel belangrijk onderdeel was van het financieringsmodel. Daarbij aantekendend dat het niet alleen om coltanmijnen ging, dus dat vind ik een belangrijke nuancering. Verder kan ik moeilijk de correctheid van die data inschatten, maar het is wel heel duidelijk dat in sommige perioden van het conflict heel grootschalig is geweest en dat daar inderdaad mensen onder verschrikkelijke omstandigheden hebben gewerkt onder dwang.'*

Jim: *'Ik had inderdaad op sommige momenten in de film mijn twijfels wat betreft de waarheid van zijn verhaal. Hij zei dan ook dat hij bepaalde militairen had geïnterviewd, maar die lieten hem ook heel erg makkelijk toe om te gaan filmen in die illegale coltanmijnen. Niet dat het in scene zou zijn gezet, maar het viel wel erg op dat iemand met een flinke cameraploeg daar maar filmen. Maar ook de statement van '4 miljoen mensen zijn omgekomen door de coltanhandel' is ook interessant, want bedoelt hij daarmee dat er veel mijnwerkers zijn omgekomen of door de indirecte consequenties zoals het maken van wapens met coltan, de illegale handel of oorlogsslachtoffers. Er zal vast een kern van waarheid inzitten, maar het wekte bij mij heel erg de indruk op dat hij het spraakmakender maakte om meer in beeld te komen met zijn documentaire.'*

De Ridder: *'Ja, het is helaas een trieste realiteit dat het aandacht vragen voor dergelijke conflicten of dergelijke problemen beter gaat als je dingen zegt zoals dat er miljoenen mensen zijn omgekomen en dat er zoveel mensen in die mijne werken. Dus in die zin probeer hij ook zijn informatie instrumenteel te maken, dat is in ieder geval zijn doel. Dus in die zin is het heel erg begrijpelijk en goed dat die NGO's en documentairemakers aandacht hebben gevraagd voor dit probleem, maar inderdaad is het ook belangrijk om in oogschouw te houden dat je nooit met zekerheid kan stellen dat het om 4 miljoen mensen gaat en dat het gaat om mensen die in de mijnen hebben gewerkt. Die complexiteit van dat conflict is echt enorm en het gaat ook om een land dat zo groot is, dat kunnen wij ons ook niet zo goed voorstellen, die jungle en zo en hoe dat daar dan gaat. Ik denk dat we nooit echt de exacte cijfers kunnen achterhalen.'*

Jim: *'Nee, dat denk ik ook niet. Aangezien er ook, inderdaad wat je ook zei, de jungles zijn voor ons Nederlanders in een klein land ook moeilijker voor te stellen dat er enorme mijnen*

verborgen zijn. In Nederland zou zoiets in een plek als de Veluwe direct opgemerkt zijn, het is in Congo ook nog vrij ongerept en verdwijnen er vaak ook mensen.'

De Ridder: *'Ja en wat ook heel belangrijk is om te weten is dat van die mijnbouw echt van die 'artisanal small-scale' mijnbouw is, dus mensen kunnen dan heel snel een mijntje opzetten en dan weer achterlaten en dan wordt het weer door andere mensen overgenomen en dan gaan die weer weg... Het is natuurlijk echt iets heel anders dan de grote industriële mijnbouw waarbij het ook veel makkelijker is om productiecijfers te verzamelen of gegevens te verzamelen over het aantal werknemers. Ik bedoel, dit zijn allemaal natuurlijk maar mensen die daar in de buurt wonen of daar door dat gebied zijn getrokken en inderdaad rebellengroepen die zich daar verspreiden. Ja het is moeilijk...'*

Jim: *'Het is inderdaad moeilijk om dat allemaal bij te houden wat betreft de feiten.'*

De Ridder: *'Ja inderdaad. Maar dat het grootschalig is geweest op sommige momenten dat staat denk ik buiten discussie.'*

Jim: *'Ja, inderdaad.'*

- 6. Gewapende rebellen gebruiken de illegale coltanhandel als een methode om wapens en ander militair materiaal te financieren. In uw verslag wordt vermeld dat de coltanhandel niet de aanstichter is voor het gewapende conflict in Congo maar 'op zijn ergst' een toevoeging is en als er geen coltan zou zijn, de rebellen andere methodes zouden bedenken om henzelf te financieren. Maar zou het verdwijnen van illegale (coltan)mijnen niet een enorme financiële klap kunnen veroorzaken voor de rebellen? Het oogt dat de mijnhandel een vrij makkelijke inkomstenbron is voor de rebellen en deze lijkt moeilijk te vervangen.**

De Ridder: *'Het hangt maar net van de economische omstandigheden af. Die rebellen zijn natuurlijk opzoek naar enerzijds lucratieve 'business' wat zoveel mogelijk oplevert met zo min mogelijk 'effort' en zo min mogelijk materieel. Dus op een moment dat er inderdaad de mineraal en met name de coltan prijzen heel hoog waren was het inderdaad een heel erg lucratieve business maar je kan je ook, als je het vanuit een theoretisch perspectief bekijkt, voorstellen dat stel dat al die mijn gesloten worden en als we als internationale gemeenschap effectief instaat zijn om alle illegale mijnen te sluiten, dat je best wel kan bedenken dat er een*

andere hele lucratieve financieringsbron zich aanbiedt; drugs of wapenhandel... Enzovoorts. We hebben in ons rapport het ook gehad over het heffen van een soort landbouw 'tax' en dan gaan mensen opzoek naar andere manieren om hun conflict te financieren. Dus wij hebben echt geprobeerd om een analyse te maken van de rol van coltanmijnbouw in dat conflict en daarbij vielen eigenlijk twee dingen op. Ten eerste is heel erg duidelijk dat alleen tijdens die prijsboem, want twee keer was er echt een prijsboem, dat er alleen in die periode coltan een echte inkomstenbron was van die rebellen.'

Jim: *'Ja en de laatste was in 2001.'*

De Ridder: *'Ja, klopt. Daarnaast waren er dus ook nog heel veel andere mineralen en daarmee zie je dus dat die rebellen best wel flexibel zijn in de zin van dat ze zich aanpassen aan de marktprijzen. Ze bewegen in zekere zin mee met de internationale marktontwikkeling. Het tweede wat opviel was dat zoveel de intensiteit van het conflict als de geografie van het conflict, van waar speelt het zich af, niet per se overeenkwam met prijs ontwikkelingen en de locatie van die coltanmijnen. Eigenlijk is daarmee onze belangrijkste conclusie; die oorzaak van het conflict ligt eigenlijk veel dieper, die heeft dus meer te maken met de geschiedenis van het land, de economische ontwikkelingen, we hebben trouwens in ons rapport zo'n grafiek opgenomen, waar je heel duidelijke kan zien dat die economische malaise en de hele ontwrichting van het land gewoon al is begonnen na de onafhankelijkheid. En dat bekend dat zo'n land al jaren lang te maken heeft met mensen die wel de 'grievances' kennen. Dus 'grievances' gaat dus over dat je lijdt onder bepaalde slechte sociaal-economische omstandigheden maar ook dat er ook op het gebeid van etniciteit of door de geschiedenis bepaalde trauma's bij de mensen zijn. Dat er oude open wonden, zeg maar, zijn en op het moment dat je de mijnen zou sluiten gaat dat allemaal niet zomaar weg. Dus de oorzaak van het conflict en de hele geschiedenis, met name ook de slechte economische situatie dat blijft allemaal actueel op het moment dat je de mijnen zou sluiten. Dus wat je ook ziet is doordat het conflict al zolang aansleept dat door het conflict zelf ook weer bepaalde nieuwe 'grievances' zijn ontstaan wat op zich zelf alweer bijna een aanleiding zou kunnen zijn voor een nieuwe fase in het conflict. En dan krijg je weer een nieuwe cirkel waar je niet meer uitkomt. Dus ik denk dat die mijn; ja het waren een lucratieve inkomstenbron en nee ik denk niet dat als je de mijnen sluit daardoor in één keer het conflict beëindigt zou zijn, ja, het zou wel een financiële klap zijn voor die rebellengroepen maar zolang die 'grievances' er nog zijn en zolang er reden is voor de rebellen om op de één of andere manier met elkaar te blijven strijden dan gaan ze opzoek naar een andere inkomstenbron.'*

Jim: *'Ja inderdaad, want heel veel van die rebellen werken ook samen, zoals vroeger in Rwanda. Zo wordt er natuurlijk coltan verhandeld naar Rwanda omdat het niet mogelijk is coltan te verkopen in Congo.'*

De Ridder: *'Ja inderdaad en dat heeft dus ook weer met de marktomstandigheden te maken, om heel even een voorbeeld van een andere grondstof te nemen, dat heeft dan niets met coltan te maken maar even ter illustratie; cacao. Heel veel van de cacaohandel is tegenwoordig gecertificeerd of onderdeel van Fairtrade. Nou dat betekent dat er met boeren bepaalde afspraken gemaakt worden over hoeveel zij krijgen voor hun cacao. Nou een land als Ivoorkust is een fragiele staat, veel instabiliteit, de cacao die daar vandaan komt is geen gecertificeerd Fairtrade cacao, bij buurland Ghana wel. Heel veel ontwikkelingshulp naar toe gegaan en heel veel boeren die Fairtrade cacao verbouwen, die krijgen een vaste prijs voor die cacao. Maar soms, dat idee van de vaste prijs ontstaat wanneer de marktprijs daalt, hebben die boeren een minimaal gegarandeerd inkomen, dus dat verdienen ze daar. Wat er echter gebeurd is soms, door de toenemende vraag naar allerlei luxe goederen zoals chocolade, is die prijs soms veel hoger geweest dan de Fairtrade prijs, dus krijgen ineens minder. Dus wat gebeurd er dan... Dan gaat heel veel cacao ineens vanuit Ghana naar Ivoorkust gesmokkeld worden en dan wordt het dus via Ivoorkust verhandeld. Op het moment dat de wereldprijs lager is wordt cacao vanuit Ivoorkust naar Ghana gesmokkeld en de grenzen daar zijn allemaal zo poreus en juist door de opkomst van moderne technologie zoals telefoons hebben zelfs die rebellengroepen die bijvoorbeeld al heel lang in Oeganda en de DRC opereren best wel goed toegang tot informatie zullen zij ook dat soort innovatieve manieren gebruiken om te zorgen dat zij aan hun inkomsten blijven komen.'*

Jim: *'Ze kunnen dus bijna letterlijk Google'en wat de makkelijkste inkomstenbronnen zijn voor illegale situaties en gewapende rebellen.'*

De Ridder: *'En dat is dus heel erg lastig om op het moment dat je beleid gaat formuleren dat gericht zou zijn, bijvoorbeeld op de DRC, wat nu gelukkig niet het geval is, maar stel, dan zou je zien dat het probleem zich gewoon verplaatst van de DRC naar de omliggende landen.'*

Jim: *'Dat is inderdaad een probleem. Net zoals dat er nog Hutu rebellen zitten in Congo.'*

De Ridder: *'Ja, dat heeft zo'n internationale dimensie, wat ik dus ook bedoel met dat dit conflict dus ook veel complexer is dan alleen maar de link mijnbouw.'*

Jim: *'Ja precies, maar dat klinkt natuurlijk niet interessant als je nog op 60 jaar geschiedenis in moet gaan als NGO.'*

- 7. Amnesty International heeft in 2013 een uitgebreid veldverslag uitgebracht over de schending van mensenrechten in Congo door de mijnindustrie; 'Profits and Loss: Mining and Human Rights in Katanga, Democratic Republic of the Congo'. In dit verslag wordt er niet alleen gekeken naar de gewapende rebellen die mijnwerkers uitbuiten, maar ook naar internationale bedrijven, zoals grote Chinese internationals, die hun werknemers onderbetalen, dagen achtereen laten werken of hardhandig laten behandelen door mijntoezichthouders en beveiligingspersoneel. De regering van zowel Congo als China bieden hier nauwelijks weerstand tegen. Denkt u dat dit misschien een groter probleem is voor het welzijn van de mijnwerkers, gezien dit 'legaal' is, dan de gewapende rebellen en de bezette mijnen?**

De Ridder: *'Ik kan eigenlijk op basis van het onderzoek hier weinig over zeggen omdat wij niet specifiek onderzoek hebben gedaan naar de omstandigheden in die mijnen die door internationale en Chinezen bedrijven worden gerund. Dus ik kan er eigenlijk niet veel over zeggen, maar ik weet wel dat veldonderzoek die door NGO's zoals Amnesty wordt gedaan best wel goed is in die zin om incidenten te traceren en dat die incidenten die zich hebben voorgedaan op grote schaal daar twijfel ik niet aan. Omdat in dat land, met name in de mijnbouwindustrie, toch een bepaalde cultuur van straffeloosheid en wetteloosheid eigenlijk bestaat. Of het een groter probleem is... ik denk niet dat het een kwestie is van groter of kleiner het is gewoon een ander probleem maar ook heel erg hardnekkig juist omdat de staat er bij betrokken is. Wat je ook vaak ziet, of dat nou in de illegale mijnen is of in die industriële mijnen, mensen kunnen soms wel weg, ze hebben soms wel een bepaalde mate van vrijheid maar eigenlijk is het ook weer geen vrijheid want ze hebben geen andere alternatieven, gewoon omdat het land in zo'n economische malaise verkeerd en ook er zoveel instabiliteit en onveiligheid ook is en de landbouw bijvoorbeeld volledig onderontwikkeld is, hele grote delen van de bevolking onder chronische voedselonzekeerheid lijdt, er veel armoede is, ja dan zijn mensen toch snel geneigd om toch maar weer terug te keren naar de mijn. Ook al hebben ze het daar niet goed.'*

Jim: *'Dus eigenlijk is het misschien ook meer een soort van insteek van de instanties: 'Tja, ze komen toch wel terug want er is toch niets beters te vinden in de omgeving.'''*

De Ridder: *'Ja en zolang dat het geval is dan ja is er ook heel weinig 'incentive' om de omstandigheden te verbeteren. Maar goed, dat gebeurt gelukkig wel onder de druk van de internationale gemeenschap. Maar is het een groter probleem? Dat zou ik niet zo stellen maar wel een ander heel erg hardnekkig probleem dat eenmaal hoort bij de situatie van wetteloosheid, straffeloosheid bij de 'governance' en het is nog steeds deels post-conflict en huidig conflict.'*

Jim: *'Ja want het is niet alleen een betrekking tot coltanmijnen, het gaat ook over goudmijnen en dergelijke.'*

De Ridder: *'En ja, de Chinezen hebben zelf natuurlijk ook geen goede reputatie van 'human rights' en werknemerwetten en zo.'*

Jim: *'En dan al helemaal niet wat betreft coltan, zij zijn natuurlijk één van de weinige landen die zeggen: 'Het kan ons niet schelen waar de coltan vandaan komt, we gooien het op een grote stapel en we verkopen het toch wel. ''*

De Ridder: *'Ja, je kan natuurlijk niet verwachten van een land dat zelf al vrij, al dat vinden wij, slecht omgaat met z'n eigen werknemers, en dat dan in een land waar al helemaal geen eisen worden gesteld en dat zij dan ineens heeft braafste jongentje van de klas zijn en dan normen gaan hanteren die dan boven de lokale norm verheven is. Tenzij er dan volop aandacht op wordt gevestigd door media. En dat is gelukkig een beetje de verschuiving die je ziet, dat bedrijven steeds meer gevoelig worden voor eisen voor meer transparantie, 'publish what you pay' en dan soort initiatieven. Het moment dat de camera erop gericht is...'*

Jim: *'... dan schrikken ze zeker al. Ik denk ook dat de mijnbouw voor China in Congo erg te doen is omdat als er aandacht wordt besteed aan mijnbouw in Congo, dan is het bij NGO's om de coltan van gewapende rebellen en mensen die dood gaan door het conflict. Eigenlijk wordt het spotlicht verschoven van China naar het conflict. Voor nu dan. Misschien veranderd dat in de toekomst.'*

- 8. Naast de gewapende rebellen toont hetzelfde verslag van Amnesty International aan dat het Congolese leger ook betrokken is bij het schenden van mensenrechten in coltanmijnen. Verkrachting van vrouwen, het mishandelen van mijnwerkers en het forceren van werken in mijnen komt vaak voor. Zou het mogelijk zijn dat de Congolese regering hier verantwoordelijk voor is en er bewust niets aan doet?**

De Ridder: *‘Wat je hier ziet is dat het echt een probleem is dat hoort bij een fragiele staat waarbij de overheid niet meer het monopolie op geweld bezit, dus eigenlijk heeft men het leger niet meer helemaal onder controle evenals dat er gewapende groeperingen zijn. Dus dat is één probleem. Het tweede probleem is dat de regering, dus de staat, eigenlijk heel weinig verantwoordelijkheid voelt en heel weinig ‘accountability’ moet afleggen ten opzichte van de bevolking. De instituties zijn zo zwak dat de zaken van ‘accountability’ en verantwoording afleggen niet goed geregeld zijn. Dus de overheid kijkt ook gewoon, of de mensen die daar zitten want het gaat om individuen vaak, die kijken met name wat hun eigen belangen zijn en soms, als we het over corruptie hebben zullen zij zulke misstanden dogen of gewoon laten doorgaan, er valt niet in te grijpen daar. Je ziet ook dat de overheid een sterk belang heeft bij die mijnbouw, ik heb het even opgezocht in een iGi rapport van het Extractive Industry Transparency Initiative waarin staat dat in 2012 de ‘extractive sector’ 99% van de totale Congolese export uitmaakte en 64% van het overheidsbudget, 24% was goed van de formele werkgelegenheid en 13% van het GDP. Dus als je weet dat 64% van je budget uit de mijnbouw komt dan is je vraag, nou niet helemaal beantwoord, maar het geeft wel aan dat er een heel groot belang is van de overheid bij de mijnbouwsector en dat er waarschijnlijk veel financiële transacties over en weer zijn. Tegelijkertijd zie je ook dat de overheid wel een belang heeft om die mijnbouwsector te hervormen, juist omdat ze ook inkomsten mislopen op het moment dat het niet goed gereguleerd is. Dus je ziet wel dat er steeds meer initiatieven komen dus het past langzamerhand wel in het gehele plaatje van die wederopbouw de staat, ‘state building’, dat er wel meer wetgeving komt om die mijnbouw te reguleren en daar het oplossen van die soort misstanden hoort daar ook gewoon bij.’*

Jim: *‘Het is wel interessant dat u inderdaad zegt dat ze het eigenlijk uit eigenbelang wel willen verbeteren omdat ze natuurlijk inkomsten mislopen. Toevallig had ik ook iets gelezen over Columbia, want die hebben ook een coltan probleem, die proberen het namelijk zodanig te ‘pitchen’ bij de internationale gemeenschap; ‘Wij hebben coltanmijnen diep in onze jungles, jullie mogen ze hebben maar wij willen dan wel zoveel procent van het inkomen.’ Het geen wat ze in hun pitch nooit naar voren brengen is dat de meeste van die mijnen eigenlijk in de handen zijn van FARC of andere rebellen of de lokale bevolking, van de indianen. Maar Columbia probeert dus omdat zij zelf het geld er niet voor hebben en het eigenlijk dus ook niet kunnen, vragen ze dus grote internationale bedrijven en dan met namen uit Iran, Rusland en China omdat zij niet bang zijn om gewapende beveiligers te sturen en dergelijke waardoor Columbia hun handen niet vies hoven te maken.’*

De Ridder: *'En ook, waar ik net nog even aan moest denken bij die vraag is dat wij heel erg zijn geneigd te denken vanuit de eenheid van de staat, de staat als een unitaire auctor. Je weet al vanuit onze eigen democratie hoeveel polarisatie daar is en hoeveel tegengestelde krachten daar actief zijn, bij ons zijn ze nog gekanaliseerd in de vorm van indirecte democratie. Maar daar is er niet echt sprake van een unitaire staat en zijn er zo veel individuen met een eigenlijk belang, is er zoveel corruptie dat maakt het oplossen van dit soort problemen heel erg moeilijk en het houdt ook vaak corruptie in stand.'*

Jim: *'In landen zoals Congo is er vaak een valse democratie en is er bijvoorbeeld vaak van tevoren al besloten wie er president wordt en machtspositie ze krijgen.'*

De Ridder: *'Ja inderdaad, toevallig zijn er verkiezingen in 2016. Je hebt echt een deel van het land dat nog in een staat van conflict verkeerd en je hebt een deel dat een soort post-conflict status heeft en waardoor er gewerkt wordt aan wederopbouw. En ja dan heb je nog een soort hybride vorm van de restanten uit het kolonietijdperk en een soort nieuwe frisse wind die er waait, een soort hervormingsgezinde wind. En allemaal mensen die nog allemaal hun oude belangen proberen te delen.'*

Jim: *'Misschien komt het daar dadelijk tot een moment zoals Soedan, het land in twee stukken snijden. Dan heb je Kivu en Congo.'*

De Ridder: *'Ja, maar ik denk niet dat ze dat gaan doen omdat ze ook weer de potentie hebben om weer welvarend te worden, maar goed dat was ook de bedoeling bij Soedan, haha.'*

Jim: *'Haha, ja precies.'*

- 9. De Verenigde Naties heeft in meerdere verslagen sinds 2001 aangegeven dat de Congolese buurlanden Rwanda, Burundi en Oeganda schuldig zijn aan het illegaal opgraven van coltan en het smokkelen ervan, eveneens verschillende grote internationale bedrijven. Naast het identificeren van deze illegale praktijken is de rol van de VN omtrent het welzijn van de mijnwerkers nauwelijks van toepassing, terwijl ze de schending van mensenrechten in Congo wel erkennen. Wat is uw standpunt wat de betreft de rol van de VN in deze kwestie en denkt u dat de VN zich actiever moet inzetten voor de mensenrechten van de Congolese mijnwerkers?**

De Ridder: *'Ja, de VN... De VN heeft natuurlijk een belangrijke functie in de zin dat zij een bepaalde normatieve standaard uitdragen en dus altijd op mensenrechten moeten hammeren en moeten opkomen voor de mensen en de mensen in de conflictgebieden. Dus ja de VN moet altijd actiever zijn in het aanklaarten van misstanden en zorgen dat het op de agenda staat. Tegelijkertijd denk ik niet... kijk wat het probleem is in de DRC is dat er een zwak overheidsapparaat is en dat er allerlei illegale gewapende groepen zijn en die combinatie zorgt voor de schendingen van de mensenrechten en onveiligheid. Om dat aan te pakken moet je eigenlijk zorgen dat je weer een rechtsstaat gaat opbouwen met goed functionerende instituties en de VN kan daar natuurlijk niet zomaar een goed functioneerde staatsapparaat implementeren. Dat is iets dat goed moet groeien, met name NGO's en lokale overheden spelen een belangrijke rol. Wat ook wel de VN en ook andere internationale organisaties zo goed hebben gedaan is dat er wel heel veel internationale richtlijnen zijn gekomen voor bijvoorbeeld internationale bedrijven die daar opereren en ik kan dat die in eerste instantie een grote belangrijke effectieve rol daarin gaan spelen. Met het verbeteren van de rechtsstaat daar. Als je gaat kijken naar wat zijn de prioriteiten voor het stabiliseren van Congo dan zou je in eerste instantie moeten denken aan armoede bestrijding, hoe zorg je dat mensen die tot voorkort weinig alternatieven hebben, die bij illegale groepringen en mijnbouw werken, hoe zorg je nou dat die alternatieven hebben. Dus op een vreedzame manier een levensonderhoud hebben, dus bijvoorbeeld in de landbouw. Hoe zorg je dat er gezondheidszorg is, dat er investeringsfondsen beschikbaar komen voor boeren en zo. Dat is een hele belangrijke en dat kan de VN en andere ontwikkelingsorganisaties kunnen daarbij dus wel helpen. Het tweede is het aanpakken van de straffeloosheid, dus doorbreken van de cultuur van geweld. Het is ook heel belangrijk dat de mensen de oorlogstrauma's verwerken en dat je ook zorgt dat mensen ook niet weer opnieuw, dus wat ook nog wel vaak in Rwanda vaak genoeg dreigt te gebeuren is dat mensen toch uit wraak, omwille van wat er toen gebeurd is, toch nog een soort instabiliteit dreigt. Daar kan de VN middels allerlei tribunalen et cetera ook een rol bij spelen. De laatste prioriteit is de het bestuur bevorderen, dus recht op inspraak, recht op politieke participatie. Je moet dus 'prospects of gain' weer gaan organiseren voor zo'n samenleving. Alternatieven dan vechten en mijnbouw. Op al die vlakken hebben VN 'agencies' hun capaciteiten, dus ja ze kunnen zeker op al die terreinen zeker actiever zijn maar de VN is natuurlijk ook gewoon een heel logge organisatie, met allemaal andere visies op mensen rechten, et cetera. Dus om nou te zeggen dat dé VN actiever moet zijn, tja, dat is een beetje, nou daar kan je niet veel van verwachten. Niet op die manier.'*

10. Los van Congo en de coltanmijnen heeft de VN, in samenwerking met de World Health Organization, de Mining Safety and Health Administration in 1978 opgericht. Hiermee werd er een globale standaard gezet wat betreft de veiligheid van mijnwerkers en is het aantal incidenten met 41% van 1978 tot en met de dag van vandaag. De MSHA houdt bedrijven en/of landen verantwoordelijk voor de incidenten die gebeuren in een mijn. Mocht het een zodanig erg incident zijn (o.a. slavernij of slachtoffers doormiddel van slechte apparatuur of nalatigheid), dan stapt de VN in en onderneemt stappen tegen de bedrijven en/of landen in kwestie. De VN heeft al aangetoond dat er mensenrechten worden geschonden en internationale bedrijven illegaal te werk gaan in Congo, maar heeft vooralsnog geen serieuze stappen ondernomen tegen deze bedrijven of de Congolese regering wat betreft dit thema. Wat kunnen volgens u de redenen hiervoor zijn?

De Ridder: *‘Maar dan heb ik een vraag aan jou, want jij zegt dat de VN die stapt in en bij de ondernemers. Maar wat voor stappen, waar heb je het dan over?’*

Jim: *‘Nou, het geen wat de VN al een keer heeft gedaan bij de VS is dat ze bij hen een limit hebben gezet over hoeveel delfstoffen en andere grondstoffen ze mogen verkopen en importeren dus hebben ze voor zoveel iets van 1,5% in de jaren '80, omdat ze bij een mijn ergens in Kansas waren er wegens slechte apparatuur was er een deel van een mijn ingestort waar mensen bij waren omgekomen. Niet erg veel, maar toch 7 man, de instantie wist van de ervan, de staat wist ervan waardoor de regering verantwoordelijk werd gehouden. De VN zei dat zulke omstandigheden niet meer mogen gebeuren omdat de VS het had ondertekend, dus kregen ze een sanctie tegen zich. Maar goed, het hangt er natuurlijk ook van af of het land wilt meewerken want stel dat de VS ‘nee’ had gezegd, wat had de VN dan gedaan?’*

De Ridder: *‘Ja inderdaad en kan dat geïmplementeerd worden, kan het ‘enforced’ worden? Dan is er ook natuurlijk de vraag of de staat zich verantwoordelijk voelt om bepaalde internationale ‘commitments’ na te leven en om zich dan daar ook aan te houden aan zo’n sanctie. Die voorwaarden lijken mij tot in de DRC tot op grote hoogte afwezig dus daar gaat weer hetzelfde verhaal van tegenop dat zolang je eigenlijk niet echt een rechtstaat hebt dan kan de VN van alles roepen. Maar ja of dat dan heel effectief is, dat is de vraag. Je hebt het wel over dat er dan acties genomen kunnen worden tegen die internationale bedrijven, nee dit gaat op landelijk niveau. Dus op landelijk niveau hebben we het er al over gehad. Wat ik wel interessant vindt in dit aspect is dat er wel al veel heel stappen zijn genomen de afgelopen jaren dat internationale bedrijven niet meewerken aan het in stand houden van illegale mijnbouw en het in stand houden van sociale misstanden en dat ze daarmee onbedoeld*

bijdragen aan een conflict. Je hebt bijvoorbeeld de 'Voluntary Principles for Security and Human Rights' die dus echt gaat over 'safety and security' van 'operations' dus dat is best wel operationeel ook die dus aandacht vragen voor de mensenrechten en je hebt nog de 'Guiding Principles on Business and Human Rights' en je hebt de OECD 'Due Dilligence Guidelines' en je hebt het 'Extractive Transparency Initiative' je ziet dus dat er best veel druk is gekomen door al dit soort overeenkomsten op die internationale bedrijven om zo inderdaad transparanter te worden en te zorgen dat minimaal de mensenrechten worden gerespecteerd en dat soort zaken. Je dus dat de DRC in 2014 ook voldoet aan de richtlijnen van het IITI en je ziet dat andere landen, dus ook de VS zelf, dus ook zelf een initiatief hebben als de 'Dodd-Frank Act' die we ook in het rapport bespreken. Je ziet ook dat Nederland op kleine schaal een pilootproject opgezet heeft, het 'Conflict Free Tin Initiative' ik denk dat dat hele effectieve instrumenten zijn eigenlijk.'

Jim: 'Dus dat zou eigenlijk ook gelijk kunnen helpen voor wat bijvoorbeeld China doet met het mishandelen van mijnwerkers door beveiligingspersoneel. Dat kan daarmee ook worden tegengehouden.'

De Ridder: 'Ja, kijk het meest effectieve is als er op een gegeven moment vanuit China zelf, vanuit de publieke opinie daar om meer 'accountability' en 'tranparancy' wordt gevraagd en het respecteren van de mensenrechten.'

- 11. In 2010 heeft de VN een missie gestart in Congo met de naam 'United Nations Organization Mission in Democratic Republic of the Congo', oftewel MONUC. De missie bestaat uit het beschermen van burgers en stabiliseren van de Kivu regio in Congo doormiddel van gewapende troepen te sturen die humanitair personeel begeleiden om zo te zorgen dat de mensenrechten worden nageleefd. De missie duurt tot maart 2016 en bestaat uit meer dan 22.000 personeelsleden. Onder deze missie vallen alle vormen van burgerbescherming, dus die ook van de Congolese coltanmijnwerkers. Echter, in geen enkel verslag van deze missie wordt er gerefereerd naar de bescherming of het onderzoeken van de mensenrechten van de mijnwerkers, dat terwijl de VN in andere recente verslagen aangeeft dat die schending bij mijnwerkers een groot probleem is. Het lijkt er hiermee op dat de VN niet de juist instelling heeft om zo de coltamijnwerkers te helpen en dus ook de illegale mijnhandel te stoppen, die dus ook het conflict financieren waar MONUC ook tegen 'strijdt', dat terwijl zij wel manschappen hebben die hieraan zouden kunnen bijdragen. Wat zijn uw gedachtes hierover?**

De Ridder: *'Ja ik vindt het een terechte vraag, je hebt wellicht wel meer gelezen over MONUC en dat mandaat is natuurlijk heel erg beperkt. Want je geeft aan dat de MONUC geen onderzoek heeft gedaan naar de mensenrechten van de mijnwerkers en geen bescherming biedt voor de mijnwerkers en dat is natuurlijk niet het mandaat van MONUC. Zij moeten gewoon in het algemeen zorgen dat de mensenrechten beschermd worden daar, mijnwerkers zijn dus een subgroep dus krijgen geen specifiek aandacht. Nou ja, we hebben het er net al even over gehad om die groepen te beschermen heb je een rechtstaat nodig. Nou wat wel een positieve ontwikkeling is, is dat de DRC dus steeds meer deelneemt in allerlei internationale werkgroepen, consultaties en ze proberen dus ook die internationale richtlijnen te volgen. Bijvoorbeeld die IGI, maar nog steeds zie wel dat hele grote delen van het land dus niet onder controle van de staat vallen en MONUC is natuurlijk een 'peace keeping' missie, als ik het goed heb begrepen. Dus als er geen vrede is om te bewaren dan kunnen zij natuurlijk niet optreden. Dus in die zin moeten we ook niet teveel verwachten van zo'n missie, het is natuurlijk triest om dat te constateren.'*

Jim: *'Het is natuurlijk wel interessant dat er dan wel wordt aangetoond door Amnesty International dat er mensen worden verkracht in allerlei omstreken door soldaten van de Congolese regering en dergelijke, maar dat is dus ook iets waar MONUC voorstaat om daar tegenin te gaan. Door er heen te gaan er mannen te plaatsen om zo mensen af te schrikken en precies hetzelfde kan worden gedaan, bijwijze van spreke, bij een coltanmijn. Je zet er een paar mannen neer en in theorie, want in de praktijk werkt het anders, zou je dus mensen kunnen afschrikken, 'armed groups' en dergelijke. Zo gaan ze al jaren te werk, zo doen ze het overall.'*

De Ridder: *'Maar ik denk dat het ook een risicovolle strategie is omdat je niet precies weet waar dat geld naartoe gaat vanuit die mijnen. En je wilt natuurlijk ook voorkomen dat er een MONUC vredesmacht staat voor een mijn en dat er mensen allemaal heel erg vreedzaam kunnen werken, maar dat het geld vervolgens wel via de achterpoortjes in de zakken van de rebellengroepen verdwijnt. Dan heb je helemaal de publieke opinie tegen je. En dat kan de VN zich al helemaal niet veroorloven. Ik denk in die zin dat ze daarom specifiek hebben gekozen om niet mijnen en zo te beschermen. Omdat het risico gewoon te groot is omdat je niet kan weten waar het geld heen gaat. De bedoeling was natuurlijk om die gewapende groeperingen te integreren in het leger en het ontwapenen, 'and so on'. Nou daar is die missie natuurlijk niet helemaal in geslaagd, dus in die zin als je het echt hebt over onderzoek dan zou ik zeggen dat het meer de taak van NGO's is en het beschermen, het garanderen van de mensenrechten van die coltanmijnwerkers en andere mijnwerkers dat moet gewoon onderdeel worden van het*

onderbouwen van de rechtstaat. En dat de staat ook weer de monopolie op geweld krijgt en het uitschakelen van die gewapende groeperingen, dat je ook niet meer zo sterk die link hebt tussen de mijnbouw en die groeperingen.'

Jim: 'Ja inderdaad, want als je in theorie die gewapende groeperingen tegenhoud, dan houd je ook de illegale mijnhandel tegen want zij gebruiken die mijnen dan weer. Het was gewoon een erg interessant iets, want aan de ene kant zegt de VN dat ze willen opkomen voor de mensenrechten van de mijnwerkers en willen ze illegale coltanhandel tegenhouden, maar ze hebben wel al een groep van duizenden mensen daar staan maar alleen combineren ze het dan niet om beiden thema's op te lossen. Dat vond ik dan erg interessant.'

De Ridder: 'Ik denk dus dat het voornamelijk inzit in waar we het net overhadden en wat ze absoluut echt niet willen is op enige wijze het risico lopen om beschuldigd te worden van medemogelijk maken...'

Jim: 'Ja inderdaad, dat ze die mensen beschermen maar dat het geld van die mijn weer bij de verkeerde mensen terechtkomen.'

De Ridder: 'Nee daarom, dat denk ik, maar dat heb ik niet allemaal gevolgd, dus dat is puur mijn eigen mening, haha.'

Jim: 'Haha, nee daarom. Maar heel erg bedankt in ieder geval voor het interview.'

De Ridder: 'Ja jij ook, ik hoop dat je er wat aan hebt gehad. Ik vond het leuk om het hier over te hebben, want dat heb je niet snel. '

Jim: 'Ja dat vond ik ook, nogmaals bedankt.'

De Ridder: 'Ja, graag gedaan!'