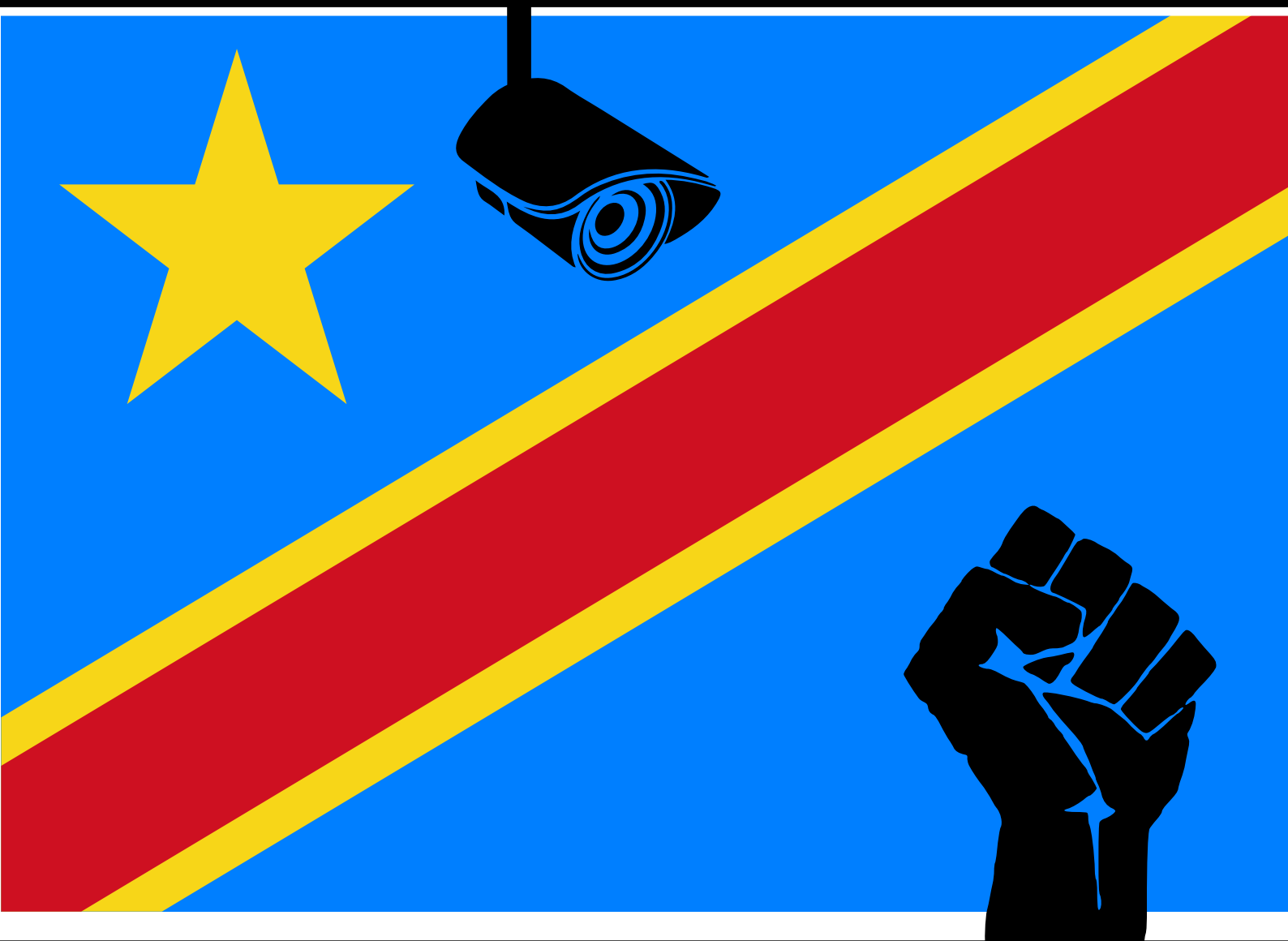


The current state of civil society and activist movements working around natural resources in the DRC in the era of increasing digital surveillance



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May 2023



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**This report was commissioned by the Media Policy and Democracy Project (MPDP).
Supported by a grant from Luminare**

The MPDP is a project of the University of Johannesburg's Department of Communication and Media.

May 2023

Available from the Media Policy and Democracy Project website:

<https://www.mediaanddemocracy.com/>

Abstract

This report examines access to civic space by civil society organizations to monitor natural resource governance in the DRC. In order to be a vector for sustainable development, the exploitation of natural resources must be followed by careful monitoring, both in terms of its traceability and the allocation of the resources generated. In the DRC, civil society actors exercise this control over the political and economic actors concerned. However, this practice is met with resistance from economic and political actors. The latter exercise increased surveillance over the activities of civil society organizations. This surveillance can take the form of phone tapping, profiling, website blocking, spying, etc. This paper examines the extent to which this surveillance impacts on the democratic space around natural resource exploitation.

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Acronyms and abbreviations

CSO: Civil Society Organization

MC: Citizen's Movement

DRC: Democratic Republic of the Congo

BEST: Bureau of Scientific and Technical Studies

POM: Platform of civil society organizations working in the mining sector

SOLORN: Synergy of Civil Society Organizations for Natural Resources

GTMRN: Thematic Group on Mining/Natural Resources of Civil Society

GATT-RN: Groupe d'appui à la traçabilité et la Transparence dans la Gestion des Ressources naturelles

CERN/CENCO: Episcopal Commission for Natural Resources

OSCMP: Civil Society Observatory for Peace Minerals

LUCHA: Fight for Change

IDAK: Dialogue framework for sustainable investments in Upper Katanga

IDAKI: Dialogue platform on sustainable investments in Kivu

DRC: Democratic Republic of Congo

FARDC: Forces armées de la République démocratique Congo

MRLK: Mouvement révolutionnaire de Libération du Katanga

MONUC: United Nations Mission in the DRC (MONUC)

EIC: Independent State of Congo

CCIC: Chambers of Commerce and Industry of Congo

EUPBNL: Non-profit public utile institutions

ASBL: Non-profit organisations

NSC: Sovereign National Conference

ANR: Agence Nationale de Renseignement

DEMIAP: Military Detection of Anti-Patriotic Activities

CSAC: Conseil Supérieur de la Communication audiovisuelle

CRS: Catholic Relief Services

Executive Summary

This study report describes the current situation, in terms of access to civic space, of Civil Society Organisations (CSOs) and Activist Movements (AMs) monitoring natural resource governance in the Democratic Republic of the Congo (DRC) in the context of intense digital surveillance. It builds on the foundations of recent history analysing the mining industry and its sustainable socio-economic impact by providing two main conclusions. It proceeds from two basic premises. First, that mining has not delivered the benefits expected by citizens, particularly in poorer countries that have high hopes for their natural resource wealth (Erin and Peter, 2012). Second, that despite its abundant natural resources, the Democratic Republic of the Congo remains one of the poorest countries in the world (Edmond and Titeca, 2018). The stark contrast between this poverty and the immense wealth in the form of natural resources and other precious commodities that the country abounds is explained by several factors, including poor governance. This has been further crystallised by repeated wars, which have led to political instability (Nest, Grignon and Kisangani 2006; Carla, Jens, Nicola, Jürgen, and Markus, 2007). Consequently, the illicit exploitation of Congolese minerals, both by armed groups and multinationals, has been and still is the cause of massive human rights violations (Binaki, 2018; Witness, 2009; Marysse and Tshimanga, 2013; FOFE, 2006; Natural Resource Governance Institute, 2020; Kaisa, Alexander, and Okenda, 2020; MARHEGANE and CIRHUZA, 2022; Jugie, 2021).

However, in order to be a vector of sustainable development, the exploitation of natural resources must be followed by meticulous control, both on its traceability and on the allocation of resources generated (ASF, 2022). The complicity between state actors and the companies involved in this exploitation significantly hinders such control.

Therefore, it is the activities of civil society structures that make it possible to exercise this control and to exert the necessary pressure on the political and economic actors concerned (Cappelle and Custers, 2009). To do this, civil society and social movements need a democratic space to access and disseminate information on resource exploitation to the public, on the one hand, and to strengthen citizen control on the other. However, this mission is being resisted by state actors and multinationals whose influence in terms of accessing, controlling and maintaining power is undeniable nowadays. The situation in the DRC is a good example of this, with civil society organizations, citizen movements and the political opposition regularly being subjected to spying practices by the security services, particularly through digital surveillance tools (Maheshe & Mushagalusa, 2021). These include, among others, targeted phone tapping, website blocking, use of telecommunications companies and social networks, and abuse of the courts to stifle dissenting voices, etc. For natural resource organizations, digital surveillance is even higher, as their monitoring often publicizes corporate practices that violate human rights (Jameson, Song, and Pecht, 2016). Thus, numerous illustrations exposing the practices of many actors, notably some official authorities, multinational enterprises, communications companies, states and foreign companies accused of serious human rights violations, including the rights of the child, and their involvement in the digital surveillance of civil society movements, directly or through the interposition, are regularly documented and reported in several independent reports and media¹.

Finally, while new technologies have the potential to improve their productivity, sophisticated tools allow these companies to stifle

¹ More details on <https://www.rfi.fr/fr/afrique/20190610-rdc-opposition-alarmee-revelations-surveillance-sous-kabila>

the actions of CSOs and citizen movements whose technological capacities are very limited.

Introduction and Background to the Study

In the Democratic Republic of the Congo (DRC), civil society is one of the major actors in the governance of natural resources. It is understood as an umbrella organization grouping together non-profit associations (ASBLs) whose legal status is based on Law No. 004 – 2001 of 20 July 2001 on general provisions applicable to non-profit associations and public utility establishments (EUPs). According to a more appropriate classical definition, it includes all organized forces in society outside the state, the family, political parties and the market. This includes forces and structures such as associations, NGOs, the press, trade unions, churches, universities, etc. (Abega, 2009).

In Africa, as elsewhere in the world, civil society missions change over time in response to changing socio-political circumstances. They follow the same trajectories over three periods (Bugeme Zigashane, 2019). Firstly, between the 1970s and 1980s and following the weakening of the welfare state and agrarian crises in 1980, civil society was focused on rural and community health issues.

The *Action de partenaires pour le soutien au développement* (APAD) referred to civil society actors as "local development brokers" (De Sardan, 1997). Then, in 1990, civil society became involved in the question of human rights following conditionalities on development aid. During the decade of war (1996–2006), civil society actions were characterized by a polarization of discourse to the point of an identity crisis due to the personal positioning of some actors. Finally, in the second half of the 2000s, civil society organizations became interested in natural resources, especially in the eastern provinces of the country, where there was not only strong competition for mining resources,

but also serious human rights violations (UN, 2001, 2016; 2019). It is clear that the activities of civil society structures exert the necessary pressure on these political and economic actors (Cappelle and Custers, 2009). However, the politicisation of a fringe of Congolese civil society, reputed to be multifaceted, sometimes hinders this struggle².

Civil society intervention in the mining sector is fiercely resisted by the mining companies, which use elements of the Congolese National Police (PNC) and the armed forces to reduce democratic space. There is, thus, complicity between state services and companies responsible for exploitation. In its Communication *No. 319/10 of 1 June 2016*, the African Commission on Human Rights highlights this complicity between the Congolese authorities and mining companies. In 2004, a military offensive by the 62e Infantry Brigade of the Armed Forces of the DRC (FARDC) stationed in Pweto, financed and supported by the logistical support of the Australian company Anvil Mining, was carried out against the Revolutionary Movement for the Liberation of Katanga (MRLK) led by Alain Kazadi Mukalawi and installed in Kilwa on 14 October 2004. To carry out their demands against the mining company, Kazadi created a movement made up of 6 to 7 individuals who were very poorly organized and weakly armed, but they were joined by around 100 young people on the day of their installation on 14 October 2004. To force them to lay down their arms and stop making demands, the FARDC organized an offensive during which numerous human rights violations were committed, in particular arbitrary arrests at the Kabiata hotel under the coordination

² <https://suluhu.org/2020/05/01/guest-blog-la-societe-civile-et-les-mouvements-citoyens-a-la-conquete-du-terrain-a-bukavu/>

of Colonel Ilunga Adémar, pillaging, massacres and summary executions at Nsensele against the population of Kilwa. As of 14 October 2004, the United Nations Mission in the DRC (MONUC) reported more than 73 dead, including 28 by summary execution³.

In addition to this complicity, civil society actors, citizen movements and political opposition are subject to a system of spying and electronic surveillance organized by state services (Maheshe and Mushagalusa, 2021), which are constantly increasing in societies (Human Rights Council 2022; Salvas, 2001; Camilla, 2020; Cornut St-Pierre, 2019; Sfetcu, 2020; Vuilleumier, (n.d; Viana, 2021; UNHCHR, 2018; Castagnino, 2018; Abu-Laban, 2014; Amnesty International, 2021; Corentin, et al., 2018; Casilli, 2014; Castagnino, 2018; National Digital Plan, 2019). The work of civil society actors is, therefore, resisted by state actors and multinationals, the latter being a major lever to access, control and maintain power. This reduces the democratic space for accessing

and disseminating information on resource exploitation to the public and for strengthening citizen control. In South Kivu, for example, civil society actors are subject to intimidation by mining companies and state services. In case no 1136/PG030/0744/SEC/2019, members of the core civil society of the Bassin d'Elila/Chefferie de Wamuzimu complain about the violent repression of the population's demonstration by elements of the national police and the FARDC. The population had protested against the construction of a gold mining tank on the Elila River (Beach Mela) by the company Lugusha Mining. This study is therefore of crucial importance to map the current situation of civil society and activist movements monitoring resource governance in the DRC in the face of rapid digital surveillance, and to analyse the initiatives they have developed to mitigate these risks.

³ Surveys from 22 to 24 October 2004.

Methodology

In order to achieve the results of this study, an appropriate, rigorous and operational methodological approach was used, depending on the state of the legal framework, the empirical results, the theoretical orientation and the objectives. The overall methodological approach is based on the system's approach (Donnadieu & Karask, 2002; Cambien, 2008). The methodological approach used is inherently qualitative, relying mainly on a literature review and empirical data.

Literature Review

Firstly, the documentary analysis made it possible to draw up an inventory of the situation regarding mining governance and access to democratic space for CSOs working on these issues in the DRC, through the examination of general and specific documents on these themes. It also led to the documentation of the actors and monitoring practices directed against these CSOs and to an understanding of the strategies they develop to overcome them.

The Qualitative Survey

It consisted of collecting empirical data using methods and techniques for collecting and analysing qualitative data through two main techniques: individual interviews and focus groups with the various actors, i.e., mining companies, CSOs and citizens' movements, and private security companies operating in the DRC. The accounts of the interviews enabled us to deepen our analysis by means of a questionnaire survey. This methodological choice was dictated by the

desire to go beyond the framework of theoretical research to involve actors on the ground facing the challenges of mining governance and digital surveillance in order to support our research hypotheses with field results.

Delimitation of the Study Area

The geographical scope of this study includes the provinces of South Kivu, North Kivu, Maniema, Lualaba and Haut Katanga. These provinces were chosen because of their mining activities. They are endowed with four key minerals, namely gold and the 3Ts (tin, tungsten tantalum) with intense industrial and artisanal mining, but whose trade and exploitation are subject to large-scale corruption and human rights abuses by armed groups, multinational enterprises as well as elements of the FARDC (Brier, 2021; UN, 2001, 2016; 2019). Studies that have looked at the dynamics of conflict resulting from this interconnection describe several types of conflict, including (1) conflict between mining companies and artisanal miners, (2) conflict between local community members, (3) armed conflict around mining sites, (4) conflict between the mining community and mine security officers, etc. They are essentially linked to competition over resources and control of rent, sometimes in a systemic relationship between various actors (Muchukiwa, 2020; Kilosho et al). They are also mainly related to competition over resources and control of the rent, sometimes in a systemic relationship between various actors (Muchukiwa, 2020; Kilosho et al. 2021; Kilosho, 2018; Mudinga, 2017, Geenen, 2014, Mushagalusa, 2016; Murhula and Namegabe, 2014).

From the Target Population

The resource persons and structures for this study were determined by taking into account their involvement in either mining governance or digital surveillance issues. They included mainly state security services, private security companies, multinational companies, CSOs and citizen movements.

Field Data Collection

Qualitative data collection was actually conducted in the South Kivu Province. Using a developed and tested questionnaire, 10 individual interviews and 10 focus group discussions (FGs) were conducted with CSOs and citizen movements working on mining governance in the DRC, security companies and mining companies operating in the sector and based in South Kivu. These data were complemented by data from another study on mining governance carried out in parallel with the support of FDHM and in which the authors participated. During the latter, 42 individual interviews and 17 focus groups were conducted with FDHM's CSO partners, political and administrative authorities, and actors involved in the exploitation of mining resources (mining companies and mining cooperatives). In another study, 237 people were interviewed, 194 men and 43 women (CERDHO;CEGEMI 2022). This research draws on these data to conduct its analyses.

Data Processing and Analysis

The qualitative data collected was subjected to a thematic analysis with regard to the specific objectives of this research: the state of play of access to democratic space, the actors and tools of surveillance used to spy on CSOs and citizens' movements, the strategies developed by these organizations to counter this surveillance, as well as the consequences in terms of accountability of the actors involved. To analyse this qualitative information from the various interviews and discussions, we also used content analysis (through a transcription of all raw data before proceeding to the interpretation by means of an ad hoc matrix), which was complemented by triangulation. In most cases, the semi-structured interviews and group discussions were recorded and entered into a *Word* file. From the *Word* file, a synthesis of major trends, cross-checking of information and divergent ideas was produced, which finally allowed us to draw salient conclusions that underpin the writing of this report.

Presentation of results

This part of the report summarizes the salient findings of the work in line with the methodology described above. It presents a holistic analysis of the working environment of CSOs and citizen movements in terms of access to democratic space in the DRC (3.1), followed by an examination of the tools and methods used by state services,

mining companies and private security firms to monitor the activities of these organizations (3.2). The study then presents a documented analysis of resilience strategies to these surveillance practices (3.3), and finally examines their impact on mining governance, including the social responsibility of the companies involved (3.4).

Holistic analysis of the working environment of CSOs and activist movements working on mining governance in terms of access to democratic space in the DRC

With regard to the access of CSOs and citizen movements to democratic space in the DRC, the study reveals, on the one hand, the existence of a protective legal environment for democratic space, leading to a very fertile collection of CSOs and citizen movements working around natural resources, but often hindered by the persistence of practices of surveillance and repression of any dissent around the way extraction is carried out for political-economic interests.

A protective legal environment for the changing democratic space

The literature reviewed above shows that civic space, i.e., the set of structures, processes and legal instruments that allow citizens to organize themselves and act on their problems, is an indispensable element for the promotion of democracy and peace. According to a consensus theory, democracy is understood as a guarantee of peace, which has become the central pillar of the international multilateral system and an aspiration of all nations (European Parliament, 2019; UN, 2020; Oxfam International, October 2019; CIVICUS, 2017). Therefore, civic space is an essential condition for citizens to defend their interests and rights and even to survive and develop (European Parliament, 2019).

The DRC's legal environment seems receptive to the values of civic space. This observation can be deduced from the existence of legislative, administrative and governmental initiatives that have been taken and which are in line with the logic of establishing conditions conducive to civic space. At the legal level, the ratification of numerous human rights instruments, coupled with their transposition into numerous legal texts, notably the Constitution, can be observed. At the structural and processual levels, the implementation of certain structures brings citizens closer to the decision-making power through decentralization and the creation of control and independent bodies (Mabiala and Dion, 2007; Ministry of the Interior, Security, Decentralization and Customary Affairs, 2013; Titeca and deHerdt, 2011).

The former – legal guarantees – are of greater interest to us in this study, as they legitimize the actions of CSOs and citizen movements in controlling the exploitation of natural resources by multinational companies as well as their disposal by the state.

Historically, the monitoring of civil society in this sector is not new. Parallel to the governance of the DRC, since the Independent State of Congo (EIC) between 1885 and 1908 under the King of the Belgians Leopold II, certain legislation governed the Organizations of the Civil Society

(OSC), while underlining their importance in the governance of the country's natural resources. Thus, the Decree of 28 December 1888 recognized Private Associations (PAs), while the Ordinance of 18 March 1912 established the Chambers of Commerce and Industry of Congo (CCIC). The Decree-Law of 1 March 1914 granted civil status to civil society organizations and that of 19 July 1926 authorized the creation of non-profit public utility institutions (EUPBNL). It is clear that most of the structures created were composed exclusively of foreigners and played the game of the colonizer. The latter also allocated them the financial means necessary for the cause.

With the rapid emergence of a middle class known as the 'évolués', the Decree of 15 April 1958 recognized mutualist associations of a purely tribal nature. Despite subsidies from the colonial government, they did not succeed in reversing the trend. When the DRC gained independence, the authorities of the time found the role of the CSOs so impressive that they adopted the Decree of 18 September 1965 regulating the organization and functioning of non-profit associations (ASBL). Through this text, the sacred mission of Civil Society consists mainly in *preserving, promoting and disseminating democratic traditions*. This mission was reaffirmed in the 1990–1992 Sovereign National Conference (CNS), held in reaction to the deliberate suppression of democratic practices by President Mobutu. This trend was confirmed at the Sun City Conference (2001–2002), which led to the conclusion of the Global and Inclusive Agreement that gave rise to the current Constitution. This guarantees the freedom of every Congolese citizen to create and join an association of his or her choice⁴, which is

⁴ Article 37 of the Constitution states that “*The State guarantees freedom of association and the public authorities shall cooperate with associations that contribute to the social, economic, intellectual, moral and spiritual development of the population and to the education of citizens*”.

reinforced by Law No. 004/2001 on 20 July 2001⁵ on the general provisions applicable to non-profit associations and public utility institutions. In the exercise of their above-mentioned mission, CSOs can thus freely express and disseminate their opinions on the governance of natural resources in the oral, written, image or any other means of communication.

Sectoral laws, such as Law No. 11/009 on 9 July 2011 on the fundamental principles of environmental protection and Law No. 007/2002 of 11 July 2002 on the mining code, as amended and supplemented by Law No. 18/001 of 9 March 2018, have been passed to reinforce these achievements.

The first, in articles 8 and 9, states respectively that ‘everyone has the right of access to available, complete and accurate information relating to the environment, including that relating to hazardous subsistence and activities and to measures taken for their prevention...’ and that ‘everyone has the right to participate in the decision-making process relating to the environment and the management of natural resources in a transparent and equitable manner’.

The second text, in articles 215 and 216, reinforces the system by providing respectively that, “before starting his activities, the holder of a mining or quarrying right is obliged to present himself to the local authorities of the jurisdiction and to hand over to them, against a receipt, a copy of his mining or quarrying title” and that “... the holder of mining or quarrying rights is obliged to publish, at the end of each month on an ad hoc form, the quantities produced, sold or exported to mineral subsistence, their quality, their value, the amounts of the various taxes, duties and fees due and paid to the benefit of the public treasury, to decentralize territorial entities and to state bodies”.

Communications made in this way fall under the protection of Article 31 of the Constitution,

⁵ Full text available at <http://www.leganet.cd/Legislation/Droit%20Public/loi0042001.20.07.2001.asbl.htm>

and can only be infringed in the case provided for by the law. In this context, the cases of infringement under Congolese law, whether they result from Decree-Law No. 003-2003 on the ANR, Law No. 20/017 of 25 November 2020 on ICTs, the Ministerial Order of 10 June 2020 on the RAM, the Criminal Code in the context of the repression of offences against State security, or Law No. 19-019 on the security of electronic payment, are not without abuse. On several occasions, they legitimize surveillance and illegal interception of data of CSOs, citizen movements and opponents (AE, TP, and Ritimo, 2020; CIPESA, 2016; AE, TP, and Ritimo, 2020; Owenga, 200; Yende, et al., 2020).

Fertile Work of CSOs and activist Movements Working on Natural Resources

At the operational level, CSOs and citizen movements play an important role in denouncing the behaviour of the state, companies and individuals. Indeed, the practice shows that the various natural resource exploitation activities in the DRC often lead to human rights violations. Most projects have direct and/or indirect impacts on the environment, health, social dynamics, economy, infrastructure and livelihoods of the surrounding communities (Brouckere 2016). To address these negative impacts, civil society organizations have undertaken several actions (2).

The impact of mining on human rights

Previous studies have documented the negative consequences of these projects (ASF, 2022; Iguma, 2020; Mazalto, 2004). The first of these would be the loss of land and livelihoods by local people. This arises from the fact that very often the exploitation of natural resources, in this case mining and forestry, involves the granting of companies of land over which individuals have rights, either by law or custom (Geenen and Hönke 2014; Namegabe and Murhula, 2014). Expropriation in this context

will usually be carried out in accordance with Law No. 77-001 of 22 February 1977 on “Expropriation for Public Purposes”⁶. In most cases, however, the compensation does not reimburse for the local communities for the benefits they derive from the exploitation of their land. The expropriations for the benefit of *Banro corporations*⁷ in Twangiza⁸ and the development of the *Étoile de Chemaf* project⁹ in Lubumbashi are examples, respectively in Twangiza and in the Washeni villages.¹⁰ In addition to being carried out in a process of erasure of relocated local communities, compensation in the Banro context has been described as neither fair nor comprehensive; notably for its lack of comprehensiveness, objectivity and clarity¹¹.

These illustrations are far from isolated

- 6 Under the terms of Art. 2, “The public utility is likely to extend to the most diverse needs (...), and may, under the terms of Article 3, be ordered, either for one or more individually designated properties, or for all the properties included in a determined perimeter.
- 7 BANRO, a Canadian gold company which, in 1996, bought the concession from Société Minière et Industrielle du Kivu, a Belgian-Congolese joint venture created in 1976.
- 8 This is one of the sites where, since 2011, Socié Banro has been industrially producing gold and is located in the village of the same name, one of the villages of the Luhwindja chiefdom, located in the territory of Mwenga, in the province of South Kivu in the east of the DRC.
- 9 Chemical of Africa (Chemaf) is a subsidiary of the Shalina Group (an Indian company specialising in the manufacture and marketing of pharmaceutical products). Present in the DRC since 1981, it obtained the Etoile mine in 2004, one of the oldest in the copper belt and whose history is closely linked to the emergence of Lubumbashi as a mining town. For more information, http://congomines.org/drc_companies/29-chemicals-of-africa
- 10 Carter Center, ‘Mining Investments in the Democratic Republic of Congo: Development or Impoverishment of Local Communities’, Human Rights Impact Assessment of Foreign Mining Investments. Cas des investissements de Chemical of Africa (Chemaf) et Ruashi Mining au Katanga, October 2012, p.47.
- 11 For an in-depth study of these measures, see P-R. Namegabe Rugarabura and P. Murhula Batumik, ‘Contribution à l’analyse de la nature juridique des mesures de délocalisation des populations au profit de Banro Corporation à Twangiza’, in *Conjonctures congolaises 2013*, pp.142-149. Pp.130.

cases. Rather, they reveal the characteristics of expropriations that take place in the DRC, particularly when they are carried out for the benefit of a multinational. The uncertainty of the Congolese land tenure system, in particular that of rural land, the effectiveness of which is problematic, makes matters worse. Moreover, as land is the exclusive property of the state, expropriation is always possible even when these communities oppose or attempt to do so. The standards used by the government and companies to assess the value of the compensation are unknown to them. And even if this compensation, whether individual or collective, were to present a short-term windfall, its transformation into a sustainable resource substitutable for the loss of land dedicated to substantial agriculture still does not result. It could not be otherwise, as the absence of any initiation to investment policy means that the compensation is rarely reinvested, but sometimes shared between family members that it sporadically runs out¹².

Conducted as such, they systematically lead to the violation of other rights, including the right to housing, thus violating Article 11 (§1) of the International Covenant on Social, Economic and Cultural Rights which requires the State to use 'all appropriate means' to ensure the right to adequate housing¹³.

Exploitation activities are also often the cause of environmental degradation, including water contamination, particularly run-off water, an alternative to the population in the face of the state's inability to provide it. Indeed, during the exploitation phases, several exploitation activities pollute surface waters, notably because of the sediments that are transported in the waterways, making them more contaminated. At the same

time, the right to health is itself undermined, particularly through pollution of the air and the environment as a whole. These activities also pose a threat to air quality with deleterious health effects, exposing communities to respiratory diseases and many other long-term health impacts. Examples include the gold mining activities of the Chinese company *Kun Hou Mining in Shabunda* (Mushagalusa 2016)¹⁴ *Chemical of Africa* (Chemaf) in copper mining in Lubumbashi, *Ruashi Mining* in the Ruashi Mine in Katanga¹⁵. More recently, cases of water pollution, road obstruction and loss of tax revenue by the *Kamoto Copper Company* (KCC) and *Mutanda Mining*, two Glencore subsidiaries, respectively, due to their mining activities have been documented.¹⁶ Benefiting from both, a less stringent legal order than the original one and complicity of authorities at all levels, these companies sometimes have nothing to worry about. Very recently, a damning report by the commission of enquiry into the illegal exploitation of South Kivu's resources highlighted the opacity of the sector's management and made allegations against Chinese operators. According to *RFI*¹⁷, the report goes further and argues that "these mining companies are getting rich, behaving like masters of conquered territory and destroying the environment". Military and police officers are sometimes used to secure these companies and prevent possible controls by other state services

14 J-P Mushagalusa, 'De la semi-industrialisation de l'exploitation minière artisanale et son impact sur les conditions de vie de la population. Cas de l'exploitation minière par dragues à Shabunda', in Nyenyezi, A.; Geenen, S.; Ansoms, A. and Omasombo, J. (eds.) *Conjonctures congolaises 2016: glissement politique, recul économique*. Paris, Le Harmattan: 215-236; <http://www.gbv.de/dms/zbw/898167116.pdf> .

15 Carter Centre, op. cit, pp.28 and 50.

16 Bread for All, Glencore and Human Rights. *Between Promises and Realities*, online 29 November 2020, <https://painpourleprochain.ch/theme/entreprises-droits-humains/glencore-et-les-droits-humains/> , accessed 22 June 2021.

17 <https://www.rfi.fr/fr/afrique/20211118-rdc-rapport-accablant-de-la-la-commission-d-enqu%C3%AAtte-sur-l-exploitation-illicite-des-ressources-du-sud-kivu>

12 Justice and Peace, *Unscrupulous Multinationals: The Case of Banro in DR Congo*, September 2019; available at https://www.justicepaix.be/IMG/pdf/2019_analyse_multinationales_sans_scrupules_-_le_cas_de_banro_en_rd_congo.pdf , accessed 22 June 2021.

13 General Comment No. 7: The right to adequate housing, (art. 11, para. 1, of the Covenant): Forced evictions §8.

in Katanga,¹⁸ South Kivu,¹⁹ etc. This illustrates the persistence of spying on civil society actors in order to stifle any dissent around this complicity.

Civil society action

In the Democratic Republic of Congo, civil society is one of the major actors in the governance of natural resources. Despite resistance from state actors and mining companies, civil society organizations have undertaken several actions.

First, CSOs intervened in the reform of the Mining Code in 2018. On this occasion, CSOs obtained three innovations. Among other innovations of this reform, with regard to local development, they are:

- The mining royalty;
- The specifications
- The allocation of a minimum of 0.3% of turnover to contribute to community development projects in the mining sector.

The mining royalty, which varies according to the nature of the ore from 0 to 10% of the gross commercial value of any commercial product when it leaves the extraction site or processing facilities for shipment, is paid, under the terms of the mining code in Article 242, to three entities: the central government, which collects 60% (in reality, 50% for itself and 10% for the Fund for Future Generations), the province, which collects 25%, and the ETD affected by the exploitation, which collects 15%. At the level of local entities, access to the mining royalty has lifted the many ETDs out of the poverty in which most of them were operating. Today, for those provinces and DTEs that already benefit from it, the mining royalty has become the main source of funding for both operations and investments. Thanks to

this, some entities are able to finance ambitious investment projects from their own funds. In Haut-Katanga and Lualaba, for example, some entities have razed old buildings to the ground and created new ones or, failing that, rehabilitated old, dilapidated offices to bring them up to the standard of the animators' ambitions. There was even funding for the construction of hospitals and schools, asphaltting of roads, acquisition/installation of sanitation equipment (waste collection machines, road-cleaning machines) or social service equipment (hearses, morgues, staff transport vehicles, etc.).

With regard to the specifications, in Lualaba, for example, it was reported at the time of our survey that 17 specifications had already been signed for a total amount of around \$100 million. Two specifications were being negotiated. It was expected that when finalized, the total amount of the specifications would be \$120 million (interview with an adviser to the provincial Minister of Mines, Kolwezi, April 2022).

Secondly, civil society organizations have been involved in the creation of community structures such as local development committees²⁰ and monitoring committees. This issue was raised by multiple actors in the mining areas. Their comments alert to the fact that several LDCs are emerging in different mining and non-mining areas of the provinces initiated by both national and international civil society organizations. In 2021, the NGO CAFI created 712 CLDs for the promotion of development in 8 provinces in the DRC. In South Kivu, the NGO ASOP set up several CLDs between 2010 and 2017. However, with the advent of the *Guide Méthodologique de planification du Développement local* in 2021, the creation of CLDs is the responsibility

¹⁸ <http://magazinelaguardia.info/2022/08/27/militaires-et-policiers-toujours-presente-dans-les-mines-du-katanga/>

¹⁹ <https://www.rfi.fr/fr/afrique/20211118-rdc-rapport-accablant-de-la-la-commission-d-enqu%C3%AAte-sur-l-exploitation-illicite-des-ressources-du-sud-kivu>

²⁰ In its original sense, the local development committee is the governing body of a village development association (or grassroots organisation, local development initiative). INGOs have relied on this type of framework as an interlocutor and interface with the local community benefiting from humanitarian interventions.

of the decentralized authorities. According to the Methodological Guide, ‘The establishment of local development planning structures is carried out on an elective basis during assemblies organized for this purpose with the assistance of the deconcentrated services and/or the technical support structure’ (p. 31). According to this text, CSOs can no longer create LDCs because this competence is now devolved to public authorities alone. This limitation is very dangerous as it opens the way to their control and politicization.

Thirdly, civil society organizations are undertaking a number of actions to promote the effectiveness of Corporate Social Responsibility mechanisms.

In Lualaba province, many respondents did not refer to actions undertaken by CSOs to promote the effectiveness of CSR mechanisms. According to one CSO, this is due to the new nature of CSR issues. In Haut-Katanga province, CSOs are developing strategies to promote the effectiveness of CSR mechanisms, including awareness raising, advocacy, lobbying and support for local communities. The latter have stated that they direct their grievances to CSOs, which in turn refer them to companies that fail to meet their obligations. In Maniema Province, CSOs often limit themselves to denunciations as legal action is expensive. In North Kivu province, CSOs advocate with companies for compliance with specifications, maintain dialogue between actors and mediate between companies and the community. For example, CSOs obtained the release of diggers arrested because of the conflict with the company Alphamines. In South Kivu, CSOs carry out socio-economic, environmental and human rights impact assessments to promote the effectiveness of CSR mechanisms. However, several obstacles hinder the effectiveness of this mechanism, and are of a social, political, economic and structural nature.

The persistence of restrictive practices of the democratic space dictated by the protection of political-economic interests

In general, and despite the myriad of texts on civic space, there is also a deviant practice of reducing civic space. These practices remain very high, as revealed by the empirical studies of the CIVICUS Monitor, a tool providing data on the state of civil society and civil liberties in more than 197 countries worldwide. Based on this data, the Congolese civic space is classified as ‘repressed’,²¹ the second to last class on this tool’s scale of ‘closed, repressed, obstructed, constricted and open.’²² Several reasons are given in the literature to justify this state of affairs.

First, civic actors and civil society in particular face unprecedented restrictions at all levels. These are manifested in attacks on civil organizations and activists engaged in the defence of human rights (Polet, 2016; Polet, 2016a; International Civil Society Week, 2019; Titeca and deHerdt, 2011).

Then there is the crisis of democracy, the narrowing of the channels of expression, in particular for political opposition. There are also the difficulties encountered by good governance, including resistance to reform and the politicization of institutions, while several studies have established a correlation between their quality and growth, although cautiously emphasizing the modest influence of political institutions (Jacquemot, 2010; Pitseys, 2010; International Peace Institute, 2018; Refon T., 2013).

Studies have shown that these practices lead to the digital surveillance of civil society actors and that the state, companies involved in mining and/or logging, and the security companies that service

²¹ CIVICUS Monitor (2022) National Civic Space Ratings: 39 rated as Open, 41 rating as Narrowed, 42 rated as Obstructed, 50 rated as Repressed & 25 rated as Closed. Available at: www.monitor.civicus.org (Accessed: 2022-11-30).

²² More details on this ranking are available at www.monitor.civicus.org

them, regularly monitor dissent around the impact of mining. Indeed, many CSOs and citizens' movements have been targeted for surveillance for opposing the exploitation practices and their devastating ecological impact as documented above. As reported by the pro-democracy movement *Tournons la page*, Maître Timothée Mbuya, president of *Justicia Asbl*, had escaped a possible assassination attempt on 10 January 2022, after opposing the practices of "Ferme Espoir", a farm owned by President Kabila and whose boundaries had encroached on those of Kundelungu Park, according to a report by this organization²³.

The scale of this phenomenon is growing, particularly because of the dissent surrounding the rehabilitation of logging concessions, in violation of the IGF report which suspended them. This led to the Deputy Prime Minister responsible for forests to issue Ministerial Decree's No. 15/22 of 5 April 2022 suspending illegally granted logging and conservation concession contracts and No. 016/22 of 20 April 2022 creating and operating the ministerial commission in charge of revising all logging and conservation concession contracts granted to date in the DRC.

23 Details available at <https://monitor.civicus.org/updates/2022/05/13/15-activists-sentenced-for-peacefully-protesting-under-State-of-Siege-in-eastern-DRC/>

Tools and methods used by state actors and private mining companies to monitor CSO activities in the DRC

Profiles of the actors and description of the approach used

This section presents the profiles of the actors identified in the interviews as being involved in digital surveillance and the reduction of democratic space. These are, on the one hand, state services and, on the other hand, private actors, including mining companies and private security companies.

As state services, they are involved in surveillance and in the reduction of democratic space.

In electronic surveillance, the following state services are actively involved. These are the National Intelligence Agency (ANR), the Military Detection of Anti-Patriotic Activities (DEMIAP) and the Superior Council for Audiovisual Communication (CSAC). With the exception of CSAC, which is involved in the monitoring of

journalists, the various institutions are responsible for ensuring the safety and security of the state. In this capacity, they also monitor civil society organizations. However, and more broadly, other state services are directly involved in this digital surveillance, notably the General Directorate of Migration (DGM) and the national police. These services work under the authority of the National Security Council (Maheshe and Mushagalusa, 2021).

In the reduction of democratic space, two state services emerge. On the one hand, uncontrolled elements of the DRC's national police and armed forces are often used by mining companies. In case no. 1136/PG030/0744/SEC/2019, members of the core civil society of the Elila Basin/Wamuzimu District complain about the violent repression of the population's demonstration by elements of the national police and the FARDC. In fact, the population had protested against the construction

of a gold mining tank on the river Elila (beach Mela) by the company Lugusha Mining. On the other hand, the courts and tribunals participate in the reduction of democratic space by condemning civil society actors who act against the interests of the mining companies.

Private security companies are involved in monitoring workers and members of local communities on behalf of mining companies. The private security sector is governed in the DRC by Ministerial Order No. 25/CAB/MININTERSECDAC/037/2014 amending and supplementing Ministerial Order No. 98/008 on the operating conditions of security companies in the Democratic Republic of Congo. This decree defines a security company as “any legal entity under Congolese law, carrying out an activity consisting of providing third parties, on a permanent or occasional basis, without taking the place of the forces of law and order, with the following services: - surveillance and protection of movable or immovable property; - protection of persons; - surveillance and protection of the transport of valuables; - management of alarm centres and any other surveillance technology; - escorting exceptional vehicles with a view to road safety”²⁴.

Although this text is drafted in general terms, it does not authorise them to carry out digital surveillance of citizens, the only legitimate restrictions being provided for by the law on NICTs.

Description of the tools by various actors of digital surveillance against CSOs and activist movements

The actors involved in this surveillance use a variety of tools. These tools vary according to the profile of the actors involved.

State agencies use a variety of common practices, including targeted phone tapping, online surveillance and website blocking, the use of telecommunications companies, the use of social networks, and the misuse of courts and tribunals to stifle Internet freedom, all of which are usually conducted without the knowledge of the victims of surveillance (Maheshe and Mushagalusa, 2021).

The mining companies use certain monitoring tools, according to data collected in the field. These include surveillance cameras, *Mag-touch patrol batons in our day-to-day operations*²⁵, the spinning technique, telephones and torches made in France to provide quality images that can be used as evidence in the event of a trial or litigation. In our interview with a former Mongbwalu Gold Mines officer, he says that the company uses surveillance tools. According to him, “internally, we use GPS coordinates, from satellites, we can locate a threat. We also used surveillance cameras, one of which covers the entire mine.”²⁶

To monitor the authorities and competitors, some mining companies use recording pens with flash disks to store all information in audio or video format. As part of their collaboration with the authorities, some companies use GPS to locate incidents in remote areas such as uprisings, thefts, etc. In our interview with an ex-agent of Namoya Mining, he claims to use such surveillance tools. According to him, his company used ‘recording

²⁴ Art. 1 of Ministerial Order No. 25/CAB/MININTERSECDAC/037/2014 of 27 October 2014 amending and supplementing Ministerial Order No. 98/008 on the operating conditions of security companies in the Democratic Republic of Congo.

²⁵ The “mag-touch” kit is a surveillance system for guards. It includes the patrol stick with its case, the download station to transfer the patrol scores from the stick to the PC, the reporting software, as well as 10 identification points with their nylon holders. In addition, the required identification points can be supplied individually.

²⁶ Interview conducted on 8 October 2022 with a former agent of Mongbwalu Gold Mines in Bukavu.

pens. On these pens, there is a flash disk that can store all the information in audio or video format. These pens contain yellow and red lights. When the yellow light is on, only sound is recorded. When the red light is on, both audio and video are recorded. With these pens, you can capture images and sounds of a person without them being aware of it.²⁷

²⁷ Interview conducted on 8 October 2022 with a former agent of Namoya Mining in Bukavu.

For their part, private security companies use almost the same tools, including:

- The metal detector (Garrett)
- The walkie-talkie (Motorola)
- The torch
- The UV Led torch
- The Round Controller (Roundhouse System)
- The PR24 safety baton or Tonfa
- The control mirror
- The infrared thermometer
- The panic button
- Personal tracking
- Vehicle tracking
- The smoke or fire detector, etc.

These companies use these tools to monitor and intercept possible malicious information.

Analysis of resilience strategies developed by CSOs in the face of these surveillance practices

Based on regular media reports and independent reports, the CSO actors and citizens' movements we interviewed no longer doubt that they are under constant surveillance by state security services, mining companies and private security firms²⁸. The most reported practices are tapping the phones of their targets and hacking into social media accounts. Wiretapping is a classic means used by the security services, particularly the National Intelligence Agency. This has been demonstrated in our previous reports (Tresor, Maheshe, Mushagalusha, 2021). In this study, mining companies use it to monitor state authorities and civil society actors. Our interview with an ex-agent of Namoya Mining attests to this. Apart from bugging, civil society actors are monitored on social networks by state services. If

they do not suspend the accounts of civil society actors, the mining companies use surveillance to follow these actors both on social networks and in society.

In view of the above, civil society actors are exposed to particularly high risks of surveillance following denunciations of either corporate behaviour on the fringes of human rights, illegal contracts between companies and the Congolese government, corrupt practices (Iguma, 2020; Mazalto, 2004; Muzong, 2008), etc. Other companies go further by using surveillance cameras, particularly hidden cameras installed either at their administrative headquarters or on the sites of companies for which they are responsible for ensuring security. In addition to these practices, there are physical threats that can sometimes extend to the family members of those who denounce, as was the case with the Sakina company whether from civil society or security

²⁸ <https://www.france24.com/fr/20190610-rdc-joseph-kabila-accuse-avoir-recrute-anciens-mossad-espionner-opposition>

companies. Interviewees were unanimous in their view that the military and police authorities or political leaders are involved in the chain of threats. A recent IFRI report documented the illegal gold mining practices of Chinese companies, highlighting their complicity, including in the military (Mwetaminwa et Vircoulon 2022.).

In terms of resilience strategies, the field surveys categorized them into two types. Firstly, those that consist of coalescing their efforts in order to make their intervention more coordinated and influential and, secondly, strategies that react to the digital threat itself.

Strategies for Coalition and Coordination of Efforts

In the DRC, several CSOs are involved in mining governance. This is essentially linked to the composition of the Congolese civil society which, in its form, remains plural. Some of the structures are formal while others operate informally. Amongst the formal platforms, we have, amongst others, the Platform of Civil Society Organisations working in the mining sector (POM), which is very active in Lubumbashi, the Synergy of Civil Society Organisations (SOLORN) in Lualaba Province; the *Groupe thématique mines/Ressources naturelles de la société civile/Forces vives du Nord-Kivu*, the *Groupe d'Appui à la Traçabilité et la Transparence dans la Gestion des Ressources naturelles* (GATT-RN), the *Commission épiscopale pour les Ressources naturelles* (CERN/CENCO), the *Observatoire de la Société Civile pour les Minerais de la Paix* (OSCMP) (Iguma & Raoul, 2021) The *Groupe de Travail Thématique Mines* (GTT Mines) and in Maniema, the *Groupe Thématique Mines* in South Kivu Province; etc.

Citizens' movements such as LUCHA and Filimbi do not have specialized departments for monitoring the mining sector. However, they are actively involved in denouncing the mismanagement practices of government authorities as well as the irresponsible operations

of certain companies. This makes them potential targets for illegal surveillance. In addition to these structures, there are consultative frameworks in which CSOs and citizen movements participate, with decisive influence. These include the *Cadre de dialogue pour les investissements durables au Haut Katanga* (IDAK) in Katanga; the *Plateforme de dialogue sur les investissements durables au Kivu* (IDAKI) in Kivu; and the *Maison des Mines du Kivu* (MMKi).

In addition to these formal structures, there are also informal structures that operate at both national and local levels, with the aim of ensuring capacity building in the management of relocated communities. Generally, these informal structures are circumstantial. They are created only to meet a specific objective and disappear once this objective has been achieved. This is the case of the Thematic Working Group on Mining (TWG Mining).

There are many reasons for these alliances. The main reason is to give their collective actions more influence than individual actions would have, in the hope of getting authorities and companies to adopt more responsible behaviour.

Strategies to Protect Against Digital Surveillance Practices

In terms of strategies to protect against digital surveillance, CSOs and citizen movements adopted several strategies, depending on the type of threat. According to the interviewees, the first strategy was to change the phone number or mobile phone used when there was sufficient reason to believe that there was actual or potential surveillance by one or more of the named actors. The second strategy was the permanent use of headsets. According to our respondents, the headset would indeed allow the owner of the device to have regular notifications of any attempt or risk of illegal interception of exchanges or recording of conversations.

Thirdly, these actors avoided using or connecting to any Wi-Fi network. In fact, when

the security services bug these actors, they find out about their preferences in terms of workspaces (hotels, bars, cafés, etc.).

Unbeknownst to them, they do not hesitate to plot with the IT departments of these places to spy on computers and phones via the Internet network of these establishments. However, some IT staff cooperate by informing their clients, while others do not. In addition, victims of surveillance may have a constant suspicion that the establishment is now regularly visited by security guards. Therefore, the use of a customized Wi-Fi system reduces the risk of being spied on. It should be noted, however, that many of the strategies analysed remain ineffective for several reasons. The main reason is the enormous resources available to mining companies compared to the very limited financial capacity of CSOs. As a result, espionage actors often circumvent these protection strategies by using more sophisticated means.

Capacity Building as a Stand-alone Resilience Strategy

It is worth mentioning the importance that CSOs attach to capacity development programmes. According to the Catholic Relief Service (CRS) Guide, capacity development is defined as a deliberate process that increases the ability of an individual, group, organization, network or system to improve or develop new knowledge, skills, attitudes (CCAs), systems and structures needed to function effectively, work towards sustainable development and achieve goals (CRS, 2017). In our interviews, more or less three models of capacity development were identified. These different models developed by civil society organizations concerned with natural resource issues in general and mining and human rights issues in particular, aim to equip members of these organizations as well as members of local communities affected by mining operations with new knowledge and capacities in the effective implementation of the Mining Code and the various implementing texts

in the context of surveillance and reduction of democratic space.

The first model focuses on structures created by CSOs. It is about setting up and developing networks in order to emerge and strengthen themselves (Bugeme, 2019). This usually involves the formation of thematic groups or networks between civil society actors to strengthen and protect each other.

In South Kivu, for example, CSOs working in the mining cluster have created the Victims Witness and Human Rights Network (VIWINE) with funding from the Carter Centre, the UN Joint Human Rights Office and Freedom House. The network protects human rights defenders, including those working on natural resource issues. The table below shows the mechanisms that the network has put in place to assist human rights defenders who are targeted by mining companies.

The second model concerns the CSOs themselves, whose need for strengthening is felt at the internal level. In our interviews, some CSOs adopt strategies to protect themselves from electronic surveillance. These strategies include:

- The use of the air pods headphones that allow for notifications every time a recording is attempted;
- The use of different Sim cards to discuss sensitive issues;
- Limited use of unknown Wi-Fi.

Some CSOs train their members in these techniques in order to exchange for surveillance by mining companies or state services. To ensure the physical safety of human rights defenders, some CSOs relocate members targeted by security services or mining companies.

The third model of capacity building is that offered by CSOs to actors involved in mining, particularly members of local communities. The latter are most often sensitized to the respect of their rights and how to claim them vis-à-vis.

The table below reflects the different strategies of CSOs to protect themselves against the closure of democratic space and increased surveillance. Two strategies stand out.

Firstly, society's organizations are organizing themselves into a network for the protection of human rights defenders in order to protect each other. In this context, the Mining Issue Group has created the Victim's Witness and Human Rights Network (VIWINE) with funding from the Carter Centre, the UN Joint Human Rights Office and Freedom House.

Secondly, when a human rights defender is in danger, the CSO platform usually takes a series of measures to spare him or her. The main measure is temporary relocation to Bukavu, where the main offices of security services, mining companies and others are based, in order to avoid pressure on the targeted person. This practice is a form of resilience in the face of the closure of democratic space.

Mining companies involved	Congo Blueant Minerals	Mungu Ni jibu	Oriental Resources Congo	Lugushwa mining	Twangiza mining
Gender of HRDs	8 HRDs threatened all men	2 HRDs, all men	5 HRDs of which 4 men and one woman	1 male HRD	1 male HRD
Village	Kitutu Kitumba	Mela	Mitobo, kaboge and mbelekelo	Mela/Lugushwa	Luhindja
Facts of the case	To have denounced illegal exploitation and demanded that the communities' demands be taken into account.	Denouncing mining and the lack of respect for the rights of local communities Denunciation, declaration and peaceful march	Denouncing illegal exploitation, environmental destruction and death threats	Denunciation of acts of non-compliance with the mining code	Demand for the respect of community rights
Actions taken to secure the HRD	Temporary relocation to Bukavu	Temporary relocation to Bukavu	Temporary relocation to Bukavu	Temporary relocation	Temporary relocation
Other actors involved in securing HRDs	The PNC elements guarding this company are also attacking the population and guarding these predominantly Chinese-owned companies.	JKK police and FARDC arrested and threatened them	FARDC soldiers, PNC elements and guards attack people	JKK police target civil society actors	–

The impact of these resilience strategies on mining governance, including the accountability of the companies involved

In the mining sector, there are several types of CSR implementation mechanisms. Among the most significant are:

- Contribution to the financing of community development projects on the basis of a set of specifications;
- The introduction of a minimum allocation of 0.3% of company turnover to contribute to community development;
- The Mining Fund for Future Generations;
- The institution of the 15% mining royalty to be paid to the decentralized territorial entity, etc.

In this section, we examine the impact of these resilience strategies on CSR implementation mechanisms by looking at the level of involvement of mining companies by civil society actors.

The involvement of companies, which are in a position of responsibility, varies according to the level of pressure exerted on them, by the province.

In Lualaba Province, it was stated that the majority of companies sign the specifications, although they are still criticized for unilaterally setting the amounts to be allocated to the various projects. In Haut-Katanga province, it was stated that the companies sign the specifications, but with delay, at their own pace, at their own discretion because of the failure of the state. In Maniema province, the level of involvement of the companies was not clear. In North Kivu province, the level of involvement of companies is considered to be low, moving at a snail's pace. Only one company, *Alpha Mine*, has agreed with the local community on a memorandum of understanding and will sign the actual specifications after the revision of the mining law. However, part of the population feels that the first agreement (protocol) was more advantageous as it covered a wider radius of action, whereas the specifications restrict the notion of the impacted population. The other companies, SMG and SAKIMA (CFM), have hardly signed

the specifications, but organize themselves to deal with members of the local communities who are favourable to them, bribe public officials, set up project implementation agencies whose reindeer they alone control, and manage to reduce the possibilities of recourse by the local communities. In South Kivu province, the level of involvement of companies is considered low. They are accused of a lack of transparency in the publication of financial reports, mistrust of local communities, insincerity in the negotiation process, a low level of openness during the negotiation of specifications, the illegitimacy of community delegates during these negotiations, etc.

From the above, it is clear that companies are involved in the development of terms of reference. What about other elements of CSR?

The following table provides information and lists the mechanisms that are not yet operational in the provinces we visited.

Provinces	Mechanisms not yet operational
Upper Katanga	<ul style="list-style-type: none"> • The allocation of 0.3% of the company's turnover; • The Future Generations Fund; • The specifications for certain communities; • Equalization for the benefit of entities that do not have an industrial operation on their territory
Lualaba	<ul style="list-style-type: none"> • The installation of some CLS; • The involvement of local communities in determining the amount of specifications; • Some of the specifications are not yet implemented.
Maniema	<ul style="list-style-type: none"> • The absence of a general monitoring system on CSR of mining companies in the DRC; • The lack of a digitized system for reporting and warning of illegal actions by companies and other miners; • Lack of an adequate enforcement mechanism and deterrent; • The lack of financial support for artisanal operators.
North Kivu	<ul style="list-style-type: none"> • The failure to comply with international standards, particularly in respect for human rights and local development; • The failure of companies to involve local communities in mineral extraction; • Ignorance of legal texts by local communities; • Lack of information on the figure from which the 15% of the mining royalty is calculated; • Lack of transparency in project implementation; • Failure to document diseases that occur at mine sites; • The failure of state authorities to make the effort to investigate the local situation; • Failure to comply with the legal prerequisites for the granting of mining titles, including prior surveys, environmental and social impact assessments, which sometimes lead to open and deadly conflicts; • The 0.3% allocation; • Follow-up to the specifications.
South Kivu	<ul style="list-style-type: none"> • The lack of balance in the negotiation of specifications between companies and local communities; • The ineffectiveness of the specifications due to corruption of the state authorities, lack of will of the state authorities, lack of will of the companies, lack of pressure on the companies, etc. • Lack of transparency in the management of funds; • Non-compliance with environmental regulations.

Conclusion and recommendations

This report shed light on the imbroglia surrounding the governance of natural resources in the DRC by highlighting the dichotomy between the revenues of extractive companies and the level of poverty of the population living around mining sites, on the one hand, and on the other, the conflicting relationships between the state, mining companies and local communities in particular, CSOs and citizens' movements that campaign for good governance of these resources by denouncing financial embezzlement, corruption of political actors, but also the malicious practices of multinational companies in violation of the Congolese and international legal frameworks imposing transparency on them, in particular the obligation of '*due diligence*' as well as the implementation of their social responsibility (CSR). The report further highlights that while advocacy by CSOs and citizen movements for fair mining governance has led the government to revise the mining code in 2018 by incorporating innovations regarding companies' obligations to the state, local community rights and CSR, it has nevertheless increased the spying practices of which these CSOs and citizen movements and their actors are victims. This is further illustrated by the revelations of recurrent surveillance emanating from state security services such as the ANR and the Congolese National Police, from multinational companies themselves and from private security companies. Investigations carried out among these different actors have shown that CSOs involved in natural resource exploitation work in difficult conditions characterized by pressure and the use of electronic surveillance.

Aware of the danger, this report reveals that CSOs and citizen movements have developed strategies to circumvent these surveillance practices, but these are limited by financial costs and the inadequacy of their technology compared to that of large corporations that invest huge sums in surveillance technology to protect their

economic interests. Furthermore, the report concludes that the formal and informal complicity between multinational companies, state security services and even high-level political authorities further complicates the resilience strategies of CSOs and citizen movements.

In view of these findings, the study provided some recommendations whose effective implementation would improve the governance of natural resources to boost community development, but also to protect CSOs and citizen movements from illicit surveillance, the main ones being, among others:

- The establishment of a permanent consultation framework for all actors working on good governance of natural resources based on transparency;
- Training of CSOs and movements on digital monitoring and encryption techniques of information related to the exploitation of natural resources;
- Capacity building of CSOs and citizens' movement's working on natural resource governance on international and national mechanisms to protect the rights of local communities impacted by natural resource exploitation;
- The development of a peer-to-peer exchange platform between CSOs and citizen movements from all provinces of the DRC to enable them to collaborate in the exchange of experiences, information and documents related to the planning and implementation of mining sector monitoring projects, access to public information and protection against espionage practices

Finally, the Congolese government will need to cooperate and adopt a policy of accountability and transparency to ensure that these recommendations are effectively implemented and that they drive a theory of change based on good governance.

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Annexes

Contact list

Private security companies

- CONGO CONSTRUCTION Sarl/Buffalo Security (individual interview)
- Latlong International
- Simba Security
- LAVSEC

Mining companies (individual interview)

- Banro corporation mining
- Namoya mining
- Mongbwalu Gold Mines

Interview Guides and Focus Groups

- Civil society (Focus group)
- Thematic Group Mines/South Kivu
- Thematic Group Mining/ North Kivu
- Mining/Maniema Thematic Group
- Thematic Group Mining/ Upper Katanga
- Thematic Group Mining/Lualaba

Media Policy and Democracy Project

The Media Policy and Democracy Project (MPDP) was launched in 2012 and is a joint collaborative research project between the Department of Communication Science at the University of South Africa (UNISA), and Department of Journalism, Film and Television at the University of Johannesburg (UJ). The MPDP aims to promote participatory media and communications policymaking in the public interest in South Africa.

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This report was supported by a grant from Luminare.

