Free the Slaves

THE CONGO REPORT

Slavery in Conflict Minerals

FREE THE SLAVES

OPEN SQUARE FOUNDATION

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LIST OF ACRONYMS

ANR	*Agence nationale de renseignements* (DRC National Intelligence Agency)
ASSODIP	*Association pour le Développement des Initiatives Paysannes* (Association for the Development of Peasant Initiatives)
CREDDHO	*Centre de Recherche sur l'Environnement, la Démocratie, et les Droits de l'Homme* (Center for Research on the Environment, Democracy and Human Rights)
DRC	Democratic Republic of the Congo
EICC	Electronics Industry Citizenship Coalition
EITI	Extractive Industries Transparency Initiative
FARDC	*Forces armées de la République démocratique du Congo* (Armed Forces of the Democratic Republic of the Congo)
FDLR	*Forces démocratiques pour la libération du Rwanda* (Democratic Forces for the Liberation of Rwanda)
FTS	Free the Slaves
GeSI	Global e-Sustainability Initiative
ICC	International Criminal Court
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICGLR	International Conference on the Great Lakes Region
ILO	International Labor Organization
ITRI	International Tin Research Institute
iTSCi	ITRI Tin Supply Chain Initiative
MONUC	*Mission de l'Organisation des Nations Unies en République démocratique du Congo* (United Nations Organization Mission in the Democratic Republic of Congo)
MONUSCO	*Mission de l'Organisation des Nations Unies pour la stabilisation en République démocratique du Congo* (United Nations Organization Stabilization Mission in the Democratic Republic of the Congo)
NGO	Non-governmental organization
OECD	Organisation for Economic Co-operation and Development
OHCHR	Office of the High Commissioner for Human Rights
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNODC	United Nations Office on Drugs and Crime

INTRODUCTION

Slavery in the Democratic Republic of the Congo is nothing new. Central Africa was a site of slave raiding for the Red Sea and Indian Ocean slave trade long before the arrival of Europeans. But the Belgian colonial occupation, and especially the personal fiefdom of King Leopold II, brought a particularly brutal brand of slavery enforced through torture, limb amputation and murder by the mercenary *Force Publique*. This was slavery on a massive scale, and an estimated 10 million people died over a fifteen-year period. The term "crimes against humanity" was first used to describe this slavery and genocide. The driving force behind this assault was the extraction of Congo's riches, focused then on rubber and ivory.[1] The loss of cultural memory was so great that few Congolese today have any knowledge of the genocide or mass enslavement.

Portrait of two manacled Congolese men, members of a chain gang enslaved under King Leopold II's terror regime. This was a common punishment for non-payment of taxes. Circa 1904. © Universal Images / SuperStock

Congo's people achieved independence from colonial rule in 1960, but were soon subjected to the predatory regime of Mobutu Sese Seko. Mobutu robbed the country of its riches while neglecting the government's most basic functions for more than three decades. The jungle literally grew up over the country's network of roads; unpaid soldiers turned to living off the people; and the people did whatever they could to survive. A corrupt informal economy flourished, fertile ground for modern forms of slavery.

Mobutu was deposed in 1997, ending a short civil war in which the victorious rebels were supported principally by Rwanda. But the resulting instability ushered in a second and catastrophic war that left 5 million dead from the conflict, its aftermath, and related famine and disease.[2] Abuses committed by all sides in the conflict are well documented. Demands for justice for the crimes committed during that era have been strengthened by a recent UN report on the most serious violations, including slavery, committed between 1993 and 2003.[3] While peace came officially in 2002, the conflict between the army, armed groups composed in part of rebels from neighboring countries, and a number of homegrown, rag-tag militias in the eastern countryside never stopped. As of this writing, ill-prepared elections scheduled for November 2011 are generating fears of further instability and even a return to full-scale conflict.[4] Meanwhile, the war against women and girls in particular, fought by both

1 See Adam Hochschild, *King Leopold's Ghost*, Pan Macmillan: 1998, for a particularly eloquent and detailed popular examination of the abuses committed under King Leopold, as well as the movement to end them, which extended from Congo to the United Kingdom.

2 For discussion of mortality rates, see Benjamin Coghlan, et al., "Mortality in the Democratic Republic of the Congo: An ongoing crisis," 2007, available at http://www.theirc.org/sites/default/files/resource-file/2006-7_congoMortalitySurvey.pdf (last visited June 15, 2011).

3 Office of the United Nations High Commissioner for Human Rights, *Report of the Mapping Exercise documenting the most serious violations of human rights and international humanitarian law committed within the territory of the Democratic Republic of the Congo between March 1993 and June 2003*, August 2010, available in French and English at http://www.ohchr.org/EN/Countries/AfricaRegion/Pages/RDCProjetMapping.aspx (last visited June 15, 2011).

4 See, e.g., Joshua Marks, *Crisis in the Congo*, Council on Foreign Relations Contingency Planning Memorandum No. 11, May 2011, available at http://i.cfr.org/content/publications/attachments/CPA_contingencymemo_11.pdf (last visited June 15, 2011); and Statement of 47 International and Congolese Organizations, "Strengthen Civilian Protection Before Elections," June 9, 2011, available at http://www.hrw.org/en/news/2011/06/09/dr-congo-strengthen-civilian-protection-elections (last visited on June 15, 2011).

armed groups and civilians through means of sexual violence, has never ended.[5]

In a context in which the rule of law has collapsed, members of armed groups fight and—more often—prey upon civilians for several reasons. They secure their survival through looting. They fight for control over land that was once devoted to farming and ranching, sometimes along ethnic fault lines, and they fight for control over the mines.

This report documents several types of slavery in Congo's mines. Some forms of slavery are directly linked to the conflict, including the use of so-called "child soldiers" and the kidnapping of civilians for forced labor and sexual slavery by illegal armed groups and uncontrolled army units. Other forms of slavery are familiar around the world: debt bondage, forced marriage, slavery in the commercial sex trade, and child slavery that grows out of poverty and the lack of community-enforced norms respecting child rights.

But while slavery is not new, neither are efforts to stop it. An anti-slavery campaign at the end of the 19th century broke Leopold's grip on Congo. Today, human rights workers in Congo's war-afflicted east, supported by activists in North America and Europe, work to end the widespread abuses of rape, slavery, and wanton killing.

Nonetheless, the dynamics of slavery and how the slavery of eastern Congo fits into contemporary legal definitions of slavery are not well understood. There is no doubt, however, that this is slavery—the control of people using violence and its threat to extract work or sexual exploitation, a radical diminution of free will, intentional coercion to make the victims believe they cannot walk away, and no pay beyond subsistence, if that.

A caricature from 1905 showing King Leopold II. Original caption read, "My yearly income from the Congo is millions of guineas."

Armed groups are the principal perpetrators, but they are not alone. Civilian middle managers, moneylenders, brothel owners, and even parents in some cases, are also responsible for these modern forms of slavery. This means that ending the conflict is only part of the solution. Nor is it possible for a modern-day abolitionist simply to step into the world of eastern Congo, with all of its history and complexity, and expect to rescue those in slavery one-by-one. Congolese abolitionists and human rights workers, joining with anti-slavery workers around the world, must and do operate at multiple levels. The necessary approaches include: active and courageous international diplomacy, pressure from all quarters on Congolese and neighboring governments including Rwanda, Uganda and Burundi; regulatory, consumer and investor pressure on companies to clean slavery out of their supply chains; and the strengthening of mining communities at the local level.

5 See, e.g., Human Rights Watch, *Soldiers Who Rape, Commanders Who Condone*, July 2009, available at http://www.hrw.org/en/reports/2009/07/16/soldiers-who-rape-commanders-who-condone (last visited June 15, 2011).

BACKGROUND ON EASTERN DRC'S MINERALS TRADE

The tin, tungsten, tantalum, and gold[6] extracted from eastern Congo are known today as "conflict minerals" for their role in fueling the world's deadliest ongoing conflict.[7] After mining, these tainted minerals enter a complex supply chain that stretches around the world. Most of these minerals leave the DRC illegally and are then sold to smelters in Asia and Europe.[8] Having been smelted, refined and processed, the minerals are incorporated into components such as capacitors, resistors or solder, to be used in the assembly of a range of products from portable consumer electronics to medical devices and advanced aeronautics. After passing through brokers, wholesalers, and retailers, at the end of this supply chain are the consumers. These buyers of goods like cell phones, cars, and light bulbs[9] unintentionally fuel the conflict and underwrite modern slavery and the worst sexual violence in the world.[10]

> ***"Our riches are like a curse."***
> *—Delly Mawazo*
> *Sesete Congolese Activist*

This report is based on testimony from artisanal miners, Congolese civil society representatives, officials of the UN peacekeeping mission (MONUSCO[11]), and international human rights organizations. It paints a grim picture of eastern DRC. There are widespread reports of collusion between rebel groups and the national army to illegally exploit, tax, and trade minerals, money and arms.[12] This is a system that rewards illicit trade and discourages legal and stable commerce. Minerals mined in areas controlled by armed groups pass along the supply chain with unreliable, falsified, or simply nonexistent documentation. Military and civilian authorities are often unable, or unwilling, to fulfill their most basic regulatory responsibilities. Many are preoccupied with extorting illegal "taxes" along trade routes and at checkpoints.[13] The militarization of mining is exacerbating the armed conflict,[14] and the heightened degree of force and coercion imposed on a vulnerable population intensifies the factors that support slavery.

6 Referred to as "the three Ts," tin, tungsten and tantalum are known at their point of extraction by the ores from which they are derived: cassiterite (tin), wolframite (tungsten), and coltan (tantalum).

7 The degree to which these minerals have fueled the armed conflict has been widely discussed. See, e.g., the G8 Muskoka Declaration, June 25-26, 2010, available at: http://www.canadainternational.gc.ca/g8/summit-sommet/2010/muskoka-declaration-muskoka.aspx?lang=eng (last visited on June 15, 2011). Free the Slaves concurs with the general view that the competition for control over mineral profits has played a central, but not exclusive, role in exacerbating conflict, regional instability, poor governance, and underdevelopment.

8 See John Prendergast and Sasha Lezhnev, "From Mine to Mobile Phone," The Enough Project, November 10, 2009, available at http://www.enoughproject.org/files/publications/minetomobile.pdf (last visited June 15, 2011).

9 For a list of goods connected to minerals from eastern DRC, see the Slavery Impact Calculator at http://www.freetheslaves.net/congo.

10 Amber Peterman, et al., "Estimates and Determinants of Sexual Violence Against Women in the Democratic Republic of Congo," *American Journal of Public Health*, June 2011, Vol. 101, No. 6, pp. 1060-1067; see also Kirsten Johnson, et al., "Association of Sexual Violence and Human Rights Violations With Physical and Mental Health in Territories of the Eastern Democratic Republic of the Congo," *Journal of the American Medical Association*, August 4, 2010, Vol. 304, No. 5, pp. 553-562.

11 The United Nations Organization Stabilization Mission in the Democratic Republic of Congo, formerly the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC).

12 UN Security Council, *Final Report of the Group of Experts on the Democratic Republic of the Congo*, S/2009/603, New York, November 23, 2009, paras. 20-43; see also Global Witness, "'Faced with a Gun, What Can You Do?': War and the Militarisation of Mining in Eastern Congo," July 2009, pp. 43-47, available at http://www.globalwitness.org/library/global-witness-report-faced-gun-what-can-you-do (last visited June 15, 2011).

13 Ibid, pp. 25-37.

14 Global Witness. "'Faced with a Gun, What Can You Do?': War and the Militarisation of Mining in Eastern Congo," July 2009.

At the same time, tens of thousands of rural artisanal miners and their families rely heavily on mining for their livelihood. This reliance has deepened over the decades of violent conflict. Poor governance and the absence of the rule of law have eroded the social fabric of communities and the viability of sustainable economic alternatives. For those who can choose to extract and transport minerals, mining activities bring minimal benefit beyond immediate survival. Even so, in a country where the average income is only around US$1 per day, and in the devastated economy of the Eastern Congo, many miners earn more than they could hope to in any other activity.

A miner in Goma, Democratic Republic of Congo. Photograph by Julien Harneis.

Despite the perception that mining will bring relative prosperity, conditions at the mines are harsh. Many individuals have been displaced many times by the conflict. At the mines and far from home again, they lack support systems to fall back on, and arrive in the unfamiliar environment of the mines with inflated expectations. They quickly find that extortion and fraud in mining zones make the cost of living prohibitive, driving them to desperate measures. Living and working in squalid conditions, individuals and families borrow beyond their meager means, finding themselves in debt and at the mercy of mine shaft owners, lenders and the armed groups. Informants disclosed that living and working conditions in the mines controlled by the FARDC (DRC's national army) are as poor as those in mines controlled by the FDLR (a militia led by Rwandan Hutu rebels originally formed by Rwanda's *génocidaires*) and other armed groups.[15] Women, who frequently are not allowed to work directly in the mines, have even fewer options for contributing to household income. As a result, many girls and women are coerced into commercial sexual exploitation. Others are kidnapped and become sex slaves to members of armed groups, sometimes forced into "marriage."[16] Forced labor is endemic in the mining zones, especially those controlled by armed groups.

In addition to the constant threat posed by the lawlessness of the armed groups, inhabitants of the mining zones face numerous threats to their health and personal safety. Miners work without basic equipment and suffer landslides, cave-ins of shafts, and asphyxiation. Malnutrition, exhaustion, physical trauma, poor sanitation, lack of medical treatment, and no clean water supply mean that public health concerns are equally high. Common injuries and ailments include: eye injuries; silicosis; conjunctivitis; bronchitis; tuberculosis; asthma; diarrhea; skin lesions; deformed muscle and bone in children due to heavy loads; regular dental problems including abscesses, cavities and lesions; tetanus; fractures and contortions; and contusions and severe bruising. Added to these are the impact of extensive drug use and sexually transmitted diseases. The intense crowding—enslaved miners are sometimes forced to sleep jammed together in the mine shafts—means that infectious diseases are rampant. One informant stated that after four to five years working in the mines the body was "completely deteriorated"; he cited spinal column damage and lung damage, conditions worsened by the extreme pollution of air and water and

15 FTS Interviews in Goma, Bukavu, Walikale and Masisi, DRC, June and July 2010.

16 Institute for War and Peace Reporting, "Grim Prospects of DRC's Female Child Soldiers," 28 April 2011, available at http://reliefweb.int/node/399062 (last visited June 15, 2011).

exposure to toxic chemicals.[17]

Nonetheless, in the absence of alternative livelihoods, eastern DRC's minerals are an essential lifeline for the region's struggling poor, prompting many local groups to assert that miners would be pushed into destitution and starvation if there were full-scale boycotts of minerals sourced from the region.[18] A mining ban instituted by President Kabila in Congo's eastern provinces in September 2010 had an immediate negative impact on the economy. Artisanal miners, their families, and others serving the basic needs of mining communities, found themselves in a state of limbo, without alternatives for sustenance. While the ban was ostensibly intended to end the trade in conflict minerals, it paradoxically created an atmosphere in which armed groups—including the Congolese army—attempted to consolidate their control over mining areas, increasing their efforts at production.[19] Moreover, reports indicate that respect for human rights on the ground may have deteriorated while the ban was in force. Since many workers left the mines, and the armed groups were determined to continue extracting minerals, workers and inhabitants in more isolated areas became even more susceptible to predation by armed groups seeking cheap (or free) labor.[20]

This beautiful landscape masks the desperate conditions in mining communities.

The President's ban was lifted in March 2011, but largely as a result of pending U.S. regulation, companies have pressured their suppliers to no longer source from eastern Congo as of April 2011. The result is a de facto ban for many exporters. However, the immediate negative impact on the economy must be weighed against apparent benefits that have come from President Kabila's ban and the pending U.S. regulation. These two measures helped catalyze action among companies committed to sourcing from the Congo, and later led to the withdrawal of the Congolese army, at least temporarily, from Bisie, the most important cassiterite mine in North Kivu province.

17 FTS Interviews in Walikale, DRC, November 17-19, 2009.

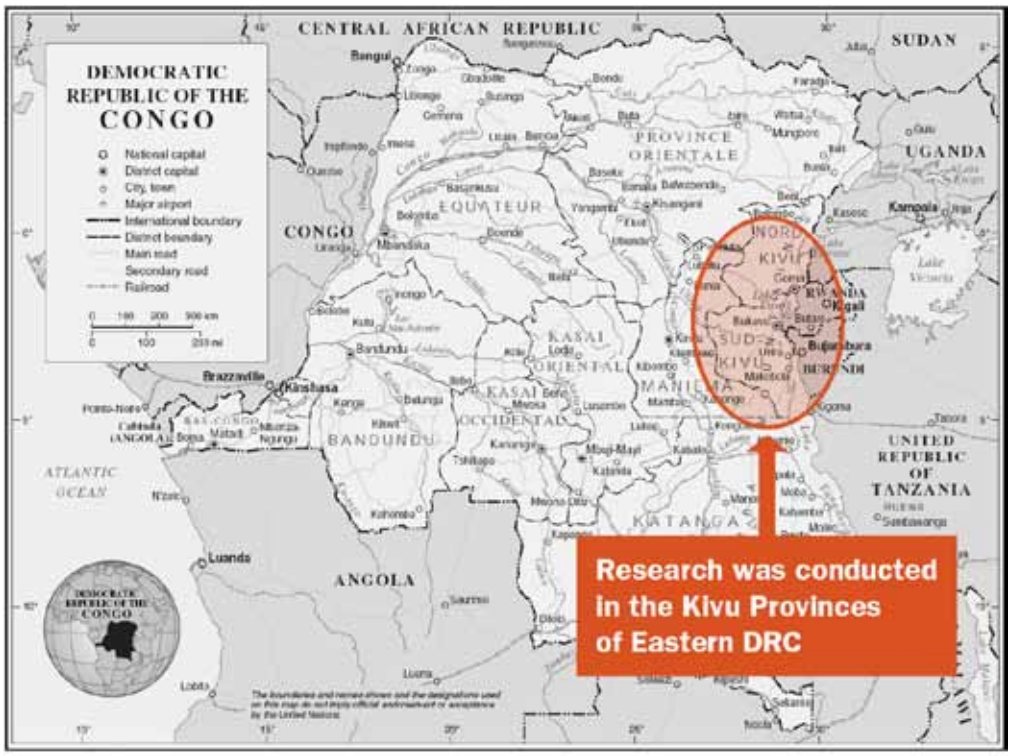
18 FTS interviews with local civil society representatives, Goma, Walikale, Bukavu, DRC, November 2009 and June-July 2010.

19 Global Witness, "Congolese mining ban fails to end armed control of trade," March 4, 2011, available at http://www.globalwitness.org/library/congolese-mining-ban-fails-end-armed-control-trade (last visited June 15, 2011).

20 See Fidel Bafilemba, "Kabila's Mining Ban Continues to Set Afloat Unfed and Underpaid Soldiers," Enough Project, January 7, 2011, available at http://www.enoughproject.org/blogs/kabila%E2%80%99s-mining-ban-continues-set-afloat-unfed-and-underpaid-soldiers (last visited June 15, 2011).

METHODOLOGY

Beginning in November 2009, Free the Slaves (FTS) traveled to the Kivu provinces of eastern DRC on a series of research and documentation missions to examine the nature and extent of slavery linked to the extraction and trade of minerals. During initial research missions, the FTS team met with international and Congolese organizations, including representatives from the U.N. peacekeeping force, MONUC (subsequently renamed MONUSCO), government officials and artisanal miners. Researchers traveled to the provincial capitals of Goma and Bukavu, and visited the remote North Kivu territories of Masisi and Walikale, where the country's most important cassiterite (tin ore) mine, Bisie, is located. Here, FTS gained valuable first- and secondhand testimony from artisanal miners and civil society leaders.



Map No. 4007 Rev.8 UNITED NATIONS
January 2004

Department of Peacekeeping Operations
Cartographic Section

FTS returned to the Kivus in June and July 2010 to deepen its understanding of how recent initiatives to address "conflict minerals" would affect artisanal mining communities, and to strengthen its relationship with local grassroots organizations working to eliminate slavery in the mining sector. FTS commissioned two Congolese organizations, the Center for Research on the Environment, Democracy and Human Rights (CREDDHO) and the Association for the Development of Peasant Initiatives (ASSODIP), to conduct surveys in the mines. This research was undertaken with two goals: first, to further understand the scale and nature of various forms of slavery previously identified by Free the Slaves in war-afflicted artisanal mining communities; and second, to determine community-based strategies for ending slavery in DRC—strategies that reflected the perspectives and priorities of those who live in directly affected communities.

CREDDHO conducted one-on-one interviews with individuals working in Bisie, which was under military control of the FARDC's (Congo's national army) 212th brigade at the time of data collection. Additional research was conducted by ASSODIP and was more narrowly focused on child labor in artisanal mining in the gold-rich Omate

mine, also in Walikale territory, and in a set of mines in Bibatama, in Masisi territory, where a variety of minerals, including cassiterite and coltan, are extracted. Data gathering consisted of interviews with individuals engaged in various forms of work related directly to mining as well as peripheral economic activities.

Statistics presented on the artisanal mining population are based on data gathered from a non-random sample of 354 men, women and children in the Bisie mine, 177 children in Omate, and 211 children in Bibatama. Data collection was conducted over a three-month period, from July to September 2010. Research was conducted under challenging logistical and security conditions where a randomized sampling was not possible. This report, therefore, does not attempt to estimate the exact prevalence of slavery in eastern DRC, but rather aims to expose the existence of modern slavery in this region through the voices and experiences of 742 individuals living and working in and around the mines. Because the figures were collected during face-to-face interviews in areas under strict control of armed groups and other authority figures, where workers could be less forthcoming, the true number of those enslaved is thought to be much higher.

Both organizations followed their surveys with community consultations in directly affected communities. The purpose of these consultations was to corroborate the findings in the survey, as well as to understand the communities' priorities and how they might address the problems identified. Those consulted included local customary leaders, government officials (territorial administration and local security forces), religious and civil society leaders, representatives of professional cooperatives, and artisanal miners themselves.

To protect the witnesses, many of their names have been changed or withheld in this report.

RESEARCH FINDINGS

OVERVIEW

The findings presented here cast needed light on the serious nature and scale of slavery found within artisanal mining communities in eastern DRC. Slavery in Congo's artisanal mining sector is pervasive, affecting individuals in various occupations, both related directly to the extraction and trade of minerals as well as other activities central to life in these communities. These activities include digging, sorting, transporting, and trading minerals, domestic work, small commercial enterprise, commercial sex, and working under the auspices of armed groups. Vulnerability to enslavement is not limited to poor diggers or to women and children; researchers were surprised to find a number of managers in situations of debt bondage in mining sites, even among higher-level businessmen. Several distinctly identifiable forms of modern slavery were found in the mining zones of eastern DRC. These include forced labor enforced by armed groups, debt bondage, peonage, sexual slavery, forced marriage, the use of children by armed groups, and other forms of child slavery.[21]

The mine is just down the hill from where these boys are standing. They are vulnerable to slavery.

It is important to note that the different types of slavery found in eastern DRC are inter-related and individuals may be enslaved within more than one type simultaneously. It is not uncommon, for example, for members of armed groups to force an individual to work in the mines during the day and sexually exploit the same person at night. Children are often forced to work without payment by family members who are trapped in debt bondage slavery.

In addition to slavery at the mining site, there is also slavery involved in the transport of minerals. For example, a human rights defender in Walikale described the collusion that occurs between those who buy from the mines and soldiers.[22] The buyer purchases minerals from armed groups who have used forced labor for their extraction or from a moneylender or local official exploiting debt-bonded workers. Or, the buyer may have his own debt-

21 For the purposes of this report, we generally do not use the colloquial term "child soldier," which fails to convey these children's victimization, and rather refer to children associated with or used by armed forces and groups.

22 Free the Slaves interview with human rights defender, Walikale, DRC, November 18, 2009.

bonded workers in the mines. The buyer will then approach an armed group to have his minerals transported from Bisie mine to Ndjingala (the trailhead for minerals leaving Bisie). The buyer pays the leader of the armed group for the transport, and the commander then sends out troops to abduct and force individuals to carry the bags, without pay or choice.

Overall, 40% of respondents interviewed in Bisie were found to be in confirmed situations of slavery, with an additional 10% showing strong indicators of enslavement. Children proved especially vulnerable to exploitation, with over two thirds of child respondents in either confirmed situations of slavery or showing strong indicators of being enslaved. Individuals found to be in slavery at Bisie ranged in age from 14 to 60 years old. In Omate and Bibatama, FTS and its partners investigated children in slavery who ranged from ages 5 to 17.

Not surprisingly, given the early enslavement of children and the lack of schooling, community consultations revealed that human rights awareness is quite low in mining areas, both in terms of civilians understanding their basic human rights and government officials understanding their responsibilities. The national army, illegal armed groups, and various civilian government authorities, assault and exploit the population with impunity, which creates a vicious circle of increased vulnerability. Widespread corruption means that any form of economic activity is tolerated in these areas, no matter the cost to human safety or dignity. There is not even minimal enforcement of Congo's mining code.

In spite of these hardships, workers continue to come to the mines from other areas of DRC in hope of a better life, often unaware of the living and working conditions at the mining sites. Community groups explained that once these workers realize the truth of danger and exploitation, they fear disbelief and ridicule if they return home empty-handed. There is no support available to help workers find alternative livelihoods, so they stay and work. With little information about their rights and even less sense of power to demand respect for their rights, they succumb to debt, exploitation and possible enslavement.

FORCED LABOR SLAVERY ENFORCED BY ARMED GROUPS

Forced labor slavery at the hands of armed groups exists along a continuum. At one extreme are villagers rounded up at gunpoint by an armed group, brutalized, threatened, and put to work. No payment is offered, there is no freedom of movement or choice, and resistance is met with deadly force. The work may entail digging of minerals or hauling or processing of mineral ores. Reports of this form of slavery were recorded by Free the Slaves researchers in 2009, and more recent research confirmed that this type of forced labor slavery has continued even at the hands of government forces.

Researchers uncovered mass forced recruitment, enslavement and concealment of evidence by FARDC soldiers of the 212th brigade during the period that it was based in Bisie. After the official suspension of mineral exploitation in the Kivu and Maniema provinces, FARDC soldiers reportedly initiated forced recruitment of miners in night-time raids on the town of Ndjingala. Village youth were forcibly recruited and brought to Bisie, where they were given army uniforms and put to work under armed guards in the mine shafts of Bisie hill. They could not escape nor were

they paid for their work. Throughout the suspension period, forcible recruitment of miners and porters continued in the villages surrounding the city of Ndjingala (for the Bisie site) and around Mubi (for the Omate gold site). Fatalities were common. In September 2010, a landslide at Bisie resulted in 15 deaths. At least one man fled to Kisangani (over 440 km or 275 miles from Bisie) after receiving threats from security services when he divulged information about the deaths of slaves in the mining shafts.

> ***"It is not uncommon for members of armed groups to force an individual to work in the mines during the day and sexually exploit the same person at night."***

A number of informants described a system of mandatory labor whereby everyone in a mine would be required to work for a designated official on a particular day (often the same day each week). This system, known as *salongo* (or sometimes as *umuganda* in Kinyarwanda, the Rwandan language spoken in parts of North Kivu), is an adaptation and perversion of a traditional custom of communal labor in service of a local tribal leader or on public works. This traditional practice was adapted by colonial administrators to justify forced labor and was known at that time as the *corveé* system.[23] In the post-colonial period, former dictator Mobutu Sese Seko revived a system of "obligatory civic work" (in Lingala, *salongo* means "work"), requiring civilians to work one afternoon per week on agriculture and development projects.[24] At that time, *salongo* led to widespread resistance, and some local officials looked the other way when people failed to comply. In more recent years, rebel militias and FARDC troops have enforced their own version of *salongo*. Once referred to as "the unfree labor of the unprotected,"[25] *salongo* requires miners and porters in eastern DRC to commit a day's labor to working for a particular militia or military leader, or another government authority. The day when individuals are required to work for one of these officials is usually and conspicuously the day when they are supposedly free to work and earn for themselves.

The majority of respondents reported that *salongo* was imposed by FARDC soldiers. Some stated that torture was the punishment for anyone who refused to participate in *salongo*, but according to most respondents, the most common consequence imposed by authorities was a fine. As is shown in the section on peonage, below, such fines in the context of eastern DRC often become another method of continuing to enslave vulnerable people.

23 J. Donnelly, *Universal Human rights in Theory and Practice* (Ithaca, New York: Cornell University Press, 1989); Ubong E. Effeh, "Sub-saharan Africa: a case study on how not to realize economic, social and cultural rights, and a proposal for change," *Northwestern University Journal of International Human Rights*. Volume 3 (Spring 2005), p. 36.

24 Timothy Raeymaekers, *The Power Of Protection: Governance And Transborder Trade On The Congo-Ugandan Frontier* (2007 Unpublished doctoral dissertation), Ghent University, p. 149.

25 J. Pottier, "Land and conflict in Ituri, Democratic Republic of Congo (DRC)," Paper presented at the *FAO International Workshop Food Security in Complex Emergencies: Building Policy Frameworks to Address Longer-Term Programming Challenges*, Tivoli, Italy, 23-25 September, 2003.

Of the 77 individuals interviewed specifically about forced labor and *salongo* at Bisie, only a fifth of miners and porters believed that "forced labor" occurred in the mining site, but four-fifths reported that they were personally made to work under the *salongo* system. This discrepancy suggests that the *salongo* system and terminology may effectively cloud miners' understanding of the presence of illegal forced labor slavery.

DEBT BONDAGE SLAVERY

Debt bondage appears to be one of the most common forms of slavery in the mines.

The research in Bisie identified 74 respondents that were in debt, of whom 31 were found to be in debt bondage slavery or to have indicators of debt bondage. Debt bondage is hard to detect, especially when the affected people are unaware of the illegality of their debts and uneducated about their rights. Thus, it is likely that a larger number of those in debt are actually in situations of debt bondage. A 2008 report found that "a fluctuating, but very high number of around 90% of the population ... inside Bisie are indebted to the *commerçants* [traders], which means they are indirectly locked into dependency with the mining site owners."[26]

Debt bondage in eastern DRC resembles debt bondage in other contexts. New workers are required to borrow money to purchase food, supplies, and the tools and equipment needed to keep them employed. The return on their work proves to be insufficient and borrowed money is exhausted as the worker struggles to pay for food and drink, lodging, medical expenses and in some cases, school fees. Interest rates are usuriously high and engineered to make it impossible to pay off the debt. This is a simple fraud to perpetrate when illiteracy prevents many miners from understanding how the debt and interest should be paid down. The borrower is unable to save, unable to pay down the debt, and falls further into debt over time. Among those interviewed for this report, debts ranged from under US$100 to over US$1000, and more than one-third (37%) were over US$500. Three out of

CHILDREN TRAFFICKED TO PAY DEBTS:

15-year-old Jean was sent over 30 kilometers (approximately 18 miles) from his hometown of Mubi to Omate by his mother in order to make money to pay off her US$100 debt. He sells grilled goat meat and is also a digger. His mother and his boss agreed that the boss must "pay" 8000FC (approximately US$10 at the time he was interviewed) per month for the child's services, of which his mother receives 6000FC to pay off her debt and the boss keeps the balance, ostensibly to provide for the child. Jean says he just wants to go home, enroll in school and run a small business.

26 Nicholas Garrett, Walikale: Artisanal Cassiterite Mining and Trade in North Kivu. Implications for poverty reduction and security, CASM report, June 2008, p. 45, available at http://www.resourceglobal.co.uk/documents/CASM_WalikaleBooklet2.pdf (last visited June 15, 2011).

five indebted miners did not believe reducing and paying off their debt was possible. Debt bondage slavery was found to affect not just the poorer diggers but also their shaft supervisors, who owed debts themselves to others farther up the supply chain.

ONE MAN'S STORY:

Damien said that he came to Bisie with hopes of riches, but instead enriched others at his own expense. As a manager of a mine in Bisie, Damien took a US$500 loan from a trader to purchase tools and provide for the family he left behind. In time, he realized that he would never be able to repay his debt at the rate of income he earned as a manager, so he became a digger himself. At the time the researchers met him, he had been working as a digger for two months, but continued to borrow to meet his basic needs. He said that he would need to find a different livelihood if he ever managed to escape.

Wolframite and cassiterite mining in the Democratic Republic of Congo. Photograph by Julien Harneis.

Those in debt felt constrained to continue working. They stated that resisting work or non-payment of debt would lead to lenders requesting intervention by "authorities." In practice, that means arbitrary arrest and detention, a constant threat in eastern DRC, where civilians can pay soldiers or police to arrest anyone they accuse of non-payment of debts (see section on Peonage, below). This is illegal, of course, but many people are unaware of the illegality—even the enslavers and exploiters.

Officials need not be involved in order for false allegations to result in slavery. 16-year-old Stephane, from South Kivu province, was encountered in Omate. He had worked previously in a house in Ndjingala, also in Walikale, where he was accused of theft and then sent to Omate to work off the money he was accused of stealing. He works for 18 hours each day in a pub. His "salary" is US$30 dollars per month, but the entire amount is confiscated to pay the sum he was accused of stealing. Stephane wants to continue his studies but cannot leave until the amount is paid.

Lenders are primarily local businesspeople involved in the minerals trade, including shaft or pit supervisors, buyers and traders. Lenders among the military were documented in only 6% of cases reported. Debtors reported that lenders, after an accusation of non-payment, might seize the debtor's salary, assign further work to the debtor, or transfer the debtor to another lender in exchange for payment. In some cases, lenders tortured the debtor; this is especially common when the lender is a soldier. A handful of debtors believed lenders would simply forgive the debt or resort to

arbitration—demonstrating that hope in humanity can and does persist, even under the very difficult conditions of Congo's mines.

Of those in debt, 53 out of 74 (72%) came from outside of North Kivu province, exclusively from other eastern provinces. Being far from home adds to a worker's vulnerability and naturally affects the way an indebted person thinks about the need to continue working, in some cases either to send money home or to get home themselves.

> ***"Debt bondage is hard to detect, especially when the affected people are unaware of the illegality of their debts and uneducated about their rights."***

PEONAGE SLAVERY

The close parallels are striking between the use of judicial corruption to ensure enslaved mine labor in the DRC and the historical use of the same methods to coerce mine workers in the American South in the years between 1870 to 1940, after the official abolition of slavery in the United States. In the United States, this systematic enslavement, for historical legal reasons, became known as the peonage system and that tends to be its descriptor today when it is discovered in other countries. In this mechanism of enslavement, a member of law enforcement, a local official, or a member of an armed group will arrest an individual. The arrest will have no basis in law and is simply a way of gaining control over a person in order to exploit his or her labor. The arrest will then be typically followed by one of three outcomes. The individual may simply be put straight to work as a prisoner under armed guard; or there may be some type of fallacious trial or hearing in which the individual will be "sentenced" to work and again taken to the mines as a prisoner; or, finally, the arrested person will be "convicted" and then fined a significant sum of money. Unable to pay the fine, the individual will either be sent to the mine to "work off" the fine, or the debt will be sold to someone who wishes to acquire an enslaved mine worker. All of these variations reflect the complete breakdown of the rule of law in the region and how that vacuum is filled by corruption.

Researchers at Bisie found at least 52 individuals in this situation. One man was convicted by authorities in Walikale town and fined US$80 for an alleged theft. Because he did not have the money to pay, he was arrested and sent to Bisie to work off the fine under the control of the Walikale officials. When researchers encountered him, he had already been working for three months and still had not worked off the penalty. He told researchers that government authorities at the mine were aware of his situation but had taken no action.

Among cases in Bisie researched for this report, the perpetrators of this form of peonage slavery were primarily in the national army, but also included members of the police and local administrative authorities. Those arrested

IMPACT OF THE PRESIDENT'S BAN ON MINING FROM SEPTEMBER 2010 TO MARCH 2011:

"Of those deprived of their freedom that we have visited in prisons, most come from mining sites affected by the suspension and are also debtors, so the question of debt bondage continues to produce victims even in the midst of a suspension. These miners—slaves who did not leave Walikale because they hoped the site would reopen—languish in jails for insolvency."

—Congolese human rights monitor, citing a typical case of one man found in jail in Mubi, near Bisie, who had already spent 7 days in detention without being given the opportunity to be heard by a judicial police officer. The monitor "reminded" the police that the detention violated Congolese and international law, whereupon the man was released.[a]

a Report from CREDDHO, January 2011, on file with Free the Slaves.

or "convicted" were required to work off amounts ranging from US$25 to $500, with most fines in the US$50 to $100 range. The 52 victims of peonage slavery found in the mine had been in bondage anywhere from a few days to over one year.

> ***"13-year-old Solange worked for her mother as a waitress while being trafficked for sex to customers of her pub in Omate."***

SEXUAL SLAVERY

Women in artisanal mining communities are often not allowed to mine minerals for profit, and as a result they are left with fewer options than men for gainful employment to support themselves and their families. Some women develop small trades in the mining village centers, selling basic items and services, while others cook and clean for others, especially military officers and business people. Others survive through prostitution or are prostituted by others. The sexual use of women's bodies is linked with their ability to survive in ways that make many women vulnerable to enslavement.

A principal avenue to slavery for female children involves a system of commercial sexual exploitation perpetrated by the owners of bars and restaurants (hereafter referred to as "pubs") in Bisie. Pub owners lure new, young recruits from their families and home villages with false promises of legitimate employment near the mines, and

CHILD SEX SLAVES:

Researchers found twelve girls working under the control of a pub owner in Bisie. The owner regularly traveled to Kisangani, where she sought out new girls to bring back with her. She used false promises of legitimate work in the pub to recruit the girls. In reality, she never paid wages for their work in the pub, but instead allowed men who frequented the bistro to have sex with the girls. The men paid the owner directly when they were done, and the girl who had been sexually exploited was given a small portion of the money paid for her. Several of the girls had contracted HIV/AIDS. All twelve girls expressed that they wanted to escape but were unable to do so.

then refuse to pay them for the work they perform. Instead, the girls are told that their "pay" is in the form of being given a venue in which to have sex with men for money. Some pub owners take the money directly, some give a portion of the money back to the girls, but they all use the girls' presence and implied sexual availability to attract customers to their establishments.

These young women describe their involvement in commercial sex; activists working with them say several are forced into sex slavery.

This type of sexual enslavement of children also exists in and around Omate. For example, Janine, aged 11, was forced into sexual slavery after arriving in Mubi. She had come to work in a pub in order to support her mother in Walikale. Janine soon discovered that, for a girl, "bar work" meant that she would not be given a salary for the work she performed. Instead, she was told that she would be "given an opportunity to be seen by men" who would pay for her sexual services. With nowhere else to go and nothing to eat, Janine was forced to engage in prostitution with bar customers, she said, "in order to find a bar of soap." Both CREDDHO and ASSODIP discovered cases in which mothers prostituted their underage daughters in this way. 13-year-old Solange, for example, worked for her mother as a waitress while being trafficked for sex to customers of her pub in Omate.

Anyesi did not cry when she talked about being abducted, forced to work by day in the mines and raped nightly by the armed group controlling the mine. Anyesi cried when she considered that the same thing could be happening to her sister.

FORCED MARRIAGE

This sorrowful account of 16-year-old Anyesi is one among countless in Eastern Congo:

> "The soldiers came in and pulled off all our clothes. We were standing there naked and they told us to lie down. They said we must become their 'wives'... They came in order to shoot and loot—we heard a lot of shooting. They were checking house-to-house, and this is when they got us. They took us to the forest with them. They became our 'husbands' just by having sex with us."

Kidnapped by an armed group at age 13, Anyesi spent the following three years under its control. Her life depended on the will of her commander, who forced her to transport and dry minerals during the day and raped her nightly as his "wife"; she was also gang raped. Anyesi shared that she always wanted to return to her family and to her old life, but feelings of hopelessness overwhelmed her thoughts of escape. Without a means to support herself, Anyesi did not know whether she would survive alone, and believed she would be murdered if her escape failed.[27]

Forced marriage and its connection to enslavement remain poorly understood. This is as true in eastern DRC as it is elsewhere, not least because the concepts of "wife," "husband," and "marriage" are used in Congo to describe a variety of different types of male-female relations, ranging from a permanent, legal marital union to an act of prostitution, and even to forcible rape occurring once or throughout a woman's or girl's captivity.

A CREDDHO survey of 87 women and girls in the Bisie mine shed some light on the ways in which women and girls perceive their forced relationships with men. As such, the findings present a tentative first step in understanding how the social construct of marriage is used in Congo to describe a variety of relationships, some of which are actually enslavement of women.

The women and girls interviewed described a variety of different types of 'marriage' or 'cohabitation' with men. Every respondent said that she was in a relationship with a man, whether she self-identified as 'married' (25%), 'unmarried' (72%), widowed or divorced. The majority (67%) said that they freely consented to these relationships and were free to leave if they wanted to. 17% felt that they were obligated to stay because they had to "cover the

27 For more about Anyesi, see Slavery in Your Pocket: The Congo Connection (Free the Slaves documentary), available at http://freetheslaves.net/congo.

man's needs". 5% confessed that they were forced to remain with a man on orders of another person who held some type of physical or economic control over her. At least one individual had lost all hope that she would ever escape.

Although the majority of respondents expressed that they were theoretically 'free' to walk away, many of these same women and girls also said that it would be difficult, if not impossible, for them to leave without some form of help. Two-thirds of respondents felt that if they decided to leave their relationships then they would need help to do so. Of these, 83% were afraid that, alone, they would not be able to meet their own or their children's needs. The remaining women and girls expressed fear of murder (5%), arrest (5%), being expelled from the mining site (2%), or being unable to adapt to life outside of that relationship (5%).

Every interviewee had witnessed women and girls forced to maintain sexual relationships with men, in prostitution, as "wives," and in other ways. When asked who the perpetrators of forced marriage were, women most commonly identified the owners of mining shafts, diggers, and members of the army, although the police, the ANR (national intelligence service), and traders at the site were mentioned as well.

THE RECRUITMENT AND USE OF CHILDREN BY ARMED FORCES AND GROUPS

The use of children by armed forces and groups has been a common feature of the conflicts in Congo and is one of the few forms of slavery where important efforts to halt the practice and to demobilize children have occurred.[28] As the national army and various armed groups have vied for control of areas rich in mineral deposits, the recruitment of child soldiers has become directly linked with the artisanal exploitation of minerals in eastern DRC. Children are involved in a variety of activities, including working as soldiers and bodyguards, doing construction, and selling goods.[29]

Former child soldiers in eastern Democratic Republic of Congo. Photograph by L. Rose.

CREDDHO's survey of 64 children associated with armed groups in Walikale territory paints a portrait of desperation and survival for the children in Bisie mine. A full

28 See, e.g. UN Security Council, *Report of the Secretary General on Children and Armed Conflict in the Democratic Republic of the Congo*, S/2010/369, July 9, 2010, available at http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N10/418/02/PDF/N1041802.pdf?OpenElement (last visited June 11, 2011).

29 Commonly, those working under the command of soldiers and armed groups were simultaneously subjected to various forms of hard labor and sexual enslavement.

third of children interviewed reported being forcibly recruited into an armed group, but not all children associated with armed groups were recruited by force. 45% of respondents explained that the primary reason they joined the armed group was that they were not being provided for at home and lacked another way to survive. Once under the control of armed groups, the majority (84%) of these children relied solely on their superiors for survival, while others reported receiving other income while acting as "enforcers" for their bosses. Although the majority of these children (82%) were with Mai-Mai[30] groups, forced recruitment by FARDC soldiers is not insignificant both in terms of the numbers of youth affected and in terms of the impact on those children's lives.

As in other mining sites, most (82%) of the children at Bisie reported that their primary work was in mining. Children were used for a wide range of jobs in the mines such as transporting and supervising the transport of minerals (38%), digging wells (36%), working as vendors selling their managers' goods in the camps, or as trade supervisors, drying minerals, building small structures, working as bodyguards, and carrying out enforcement in the mine on behalf of their superiors. No matter what their job, children, particularly girl children, in armed groups are also highly vulnerable to sexual exploitation by mine operators and soldiers.[31]

Almost all (92%) of the children expressed the hope to be reunited one day with their families. Others had abandoned that hope entirely.

CHILD SLAVERY

As described above, children are particularly vulnerable in mining sites, and this is true even when they have not been recruited into armed groups. "If you can't afford to pay for workers, you'll target children, who are most vulnerable and can be tempted into highly exploitative situations with the simple promise of a meal at the end of the day," was how one NGO worker described the situation. For many children, the idea of going to work in the mines is associated with a sense of adventure. Yet some of the most dangerous extraction tasks are set aside for children, whose smaller bodies enable them to go down into narrow mining shafts to extract minerals that are difficult to access. Poverty and lack of access to schools make children particularly vulnerable to enslavement. Many children do not have access to school due to a lack of educational infrastructure or simple inability to pay school fees. Young, numerous, cheap (if not free) and often without a parent or guardian to look out for them, and with no meaningful government effort to enforce the prohibition against child labor, these children are seen as expendable.

> ***"If you can't afford to pay for workers, you'll target children."***

30 Mai-Mai groups are Congolese militia ostensibly formed for local self-defense but often themselves committing serious abuses against civilians.

31 For additional information, see Institute for War and Peace Reporting, "Grim Prospects of DRC's Female Child Soldiers," April 28, 2011, available at http://reliefweb.int/node/399062 (last visited June 15, 2011); see also UN News, "Girls Less Likely than Boys to be Freed From DR Congo's Ranks of Child Soldiers-UN," YubaNet, 13 February 2010, available at http://yubanet.com/world/Girls-less-likely-than-boys-to-be-freed-from-DR-Congo-s-ranks-of-child-soldiers---UN.php (last visited June 15, 2011).

Busho (right) and Moise (left) say 45 men were rounded up in their village and executed by rebels. Their fathers were among those killed. Desperate, their mothers sent them to the mines. On a good day, they make enough money to buy two potatoes for their families to share. They tell stories about a ten-year old friend who was killed in the mine.

The ASSODIP research team identified no less than 318 children living in slavery, with a further 27 children showing strong indicators of being enslaved.[32] In total, 89% of the children ASSODIP interviewed were either already enslaved or perilously close to being enslaved. Children's work includes digging, cleaning, shoveling, picking and transporting minerals, as well as pounding ore with hammers. Children are forced to do this work for hours on end without payment or for wages that cover only basic subsistence. Children are also used to bring food and firewood to other workers and to work in small businesses. They are exploited in commercial sex trafficking and other types of sexual slavery, and are made to engage in looting.

A CHILD SENT TO SLAVERY:

When ASSODIP researchers spoke with seven-year old Pascale in Bibatama, he had already spent approximately two months working in the mine. Almost every waking hour of his day, from 6 am to 4 pm, Pascale works to dig, sift, clean and dry manganese, fetch water and perform other tasks for his employer. Pascale was sent to the mine by his mother's new husband, who forces Pascale to work at the mine to earn money for the family. Surrounding miners mock him as he works because he rarely speaks and when given a task he performs it in silence and without asking for a wage. Once Pascale thought that he might get a little money to pay for a coat. But he has never even touched a Congolese franc, the local currency, since he began working at the mine; he receives only bits of food given to him by the miners he works for. In the time that he has been there, he has never washed or changed his clothes.

32 In a survey of 211 children in Masisi, 186 (or 88%) of children interviewed were assessed as being enslaved, while an additional 16 children were assessed as showing strong indicators for being in slavery. In a survey of 177 children in Walikale, 132 (or 75%) of children were assessed as being in slavery, while 11 additional children showed strong indicators of being in slavery.

BRINGING JUSTICE TO THE SLAVES OF EASTERN DRC

The individual stories told above make clear that modern-day slavery is being practiced in the mining zones of eastern DRC, and is often the broader context within which constituent crimes, such as assault, rape, false imprisonment, kidnapping, denial of due process, torture, and murder, take place. As will be outlined below, the slavery cases in eastern DRC described in this report are illegal under both international and Congolese national laws that were designed to prevent these abuses and to hold perpetrators accountable when they do occur. Standards of corporate due diligence are also expanding to root out these crimes at the source of supply chains.

These children begged Free the Slaves staff to take them out of the village and to a school.

To stop slavery and bring relief to its victims it is necessary to bring about justice, a task that may be as challenging in the Congolese context as ending poverty. Intervening at the top level of the justice system is critical, but it remains only one part of what is needed to end slavery. Working from the top down through international tribunals or diplomatic channels helps to create a critical context for change, but well-functioning national and local justice systems are also central to the process of stopping slavery. Training the judiciary and national and provincial law enforcement officers will only be effective once local police are trained (and motivated) to identify and act upon slavery cases. Unfortunately, the justice system is barely functioning in vast swathes of Congo's territory, and not at all in areas controlled by foreign armed groups.

In this way, Congo is like other areas with the greatest amount of slavery, where justice systems are often dysfunctional and become active only under pressure. Fortunately, current practice suggests that it is not necessary to reform an entire justice system to start to generate effective local responses to slavery. Emerging evidence suggests that it is possible to bring justice and liberation to those in slavery by building justice from the community upwards, for example, through rights awareness training, self-help groups or community vigilance committees.

In addition, justice for Congo's slaves also requires development of appropriate industry standards, including a robust, independently monitored and audited tracing and certification scheme for minerals sourced from eastern Congo. And at the far end of the supply chain, where the violence and humiliation of slavery are made invisible within the products we use every day, consumers have a part to play as well.

INTERNATIONAL LAW

> ***"Due diligence that overlooks slavery and related human rights violations is neither an acceptable nor durable solution."***

It is not necessary here to review in detail all the international instruments that concern slavery in its many forms. The prohibition against slavery is a fundamental principle of international law, a peremptory norm from which no derogation is ever permitted.[33] As such, it is a crime of universal jurisdiction, illegal no matter where it occurs. Thus, there are a number of international human rights treaties that specifically forbid the crime of enslavement.[34] As party to these treaties, the DRC government is bound to their principles. The law of treaties obliges all member states to refrain from "acts which would defeat the object and purpose" of the treaties to which they are party.[35]

Not only is the crime of slavery[36] prohibited by international law, but so also are many of the abuses outlined in this report that make up the context of slavery, such as: the various punishments to which slaves are subjected, including the torture[37] of debtors if they are unable to repay their lenders, and other forms of cruel or degrading treatment;[38] the corrupt acts on the part of judicial authorities that promote peonage, such as arbitrary arrest or detention,[39] and other denials of due process of law.[40] Particular forms of slavery are also specifically prohibited under international law, including the forced labor[41] to which slaves are subject after being taken at gunpoint by armed groups, or when forced to work under the system of *salongo*; the recruitment of children by armed

33 M. Cherif Bassiouni, "International Crimes: 'Jus Cogens' and 'Obligatio Erga Omnes'," *Law and Contemporary Problems* (Autumn 1996), Vol. 59, No. 4, p. 68.

34 International treaties containing provisions prohibiting the acts that, alone or in combination with one another, comprise the crime of slavery outlined in this report are as follows: The 1926 League of Nations Slavery Convention or the Convention to Suppress the Slave Trade and Slavery (CSSTS), The United Nations 1956 Supplementary Convention on the Abolition of Slavery (SCAS), the Slave Trade, and Institutions and Practices Similar to Slavery, The Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), The International Covenant on Economic, Social and Cultural Rights (ICESCR), The Forced Labour Convention No. 29 (FLC), The Abolition of Forced Labour Convention No. 105 (AFLC), The Minimum Age Convention No. 138 (MAC), the Worst Forms of Child Labour Convention No. 182 (WFCL), Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the African Charter, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (TIP) and the Rome Statute, which governs the International Criminal Court..

35 Vienna Convention on the Law of Treaties, May 23, 1969, 1155 U.N.T.S. 331; 8 I.L.M. 679 (1969), Art 18.

36 Slavery and servitude are prohibited by: Art. 2 of the CSSTS; Art. 4 of the UDHR; Art. 8(1) of the ICCPR, Art. 5 of the African Charter; and article 7.1.c of the Rome Statute.

37 Art. 5 of UDHR; Art. 7 of ICCPR.

38 Art. 5 of UDHR; Art. 5 of the African Charter.

39 Art. 9 of UDHR; Art 9(1) of ICCPR, Art. 6 of the African Charter; Art. 7.1.e of the Rome Statute.

40 Art. 8; Art. 10 of UDHR; Art. 9(2)-(5); Art. 14 of ICCPR; Art. 9(2)-(5); Art. 14 of the African Charter; Art. 7.1.e of the Rome Statute.

41 Art. 8(3)(a) of ICCPR; Art. 6(1) of ICESCR; and numerous articles of FLC, AFLC and MAC.

forces and groups; the forced marriage[42] of girls and women by armed groups; the trafficking[43] of girls and young women who hope to enjoy legitimate employment but instead are trapped as sex slaves by pub owners and their customers; as well as the use of child labor and child servitude.[44]

CONGOLESE LAW

Before entering into a discussion of the rights enshrined in Congo's law of the land, we must be clear: there is very little chance for most of these laws to be consistently implemented in the short term. There is little to no law enforcement infrastructure in the mining areas of eastern Congo, a condition that allows slavery to exist with impunity and its victims to remain largely unaware of the rights they hold in law if not in practice. Social services, including child protection, are virtually unheard of. Still, it is important to understand the legal norms that have developed within the country. One hopes they will have an impact on individual, community, and corporate norms and build the backbone for a real state response.

The acts of modern day slavery documented in this report violate the Constitution of the Democratic Republic of the Congo, which entered into force in 2006, and the Congolese penal code. Article 16 of the Constitution prohibits holding a person in slavery or slavery-like conditions. Article 61 lists the prohibition against slavery and servitude among those fundamental principles and rights that cannot be suspended even during a state of emergency. Likewise, the prohibition against imprisonment for debt—the implicit or explicit threat of which forms the basis for debt bondage slavery, as documented in this report—is a fundamental principle.[45]

The penal code, originally adopted in 1940, prescribes a punishment for abduction, arbitrary arrest or detention, including for the purpose of selling a person as a slave.[46] The provision importantly recognizes that abduction, arbitrary arrest or detention may happen through violence, threat or deception. Depending upon judicial interpretations, the particular provision against selling a person may not apply to most of the cases researched for this report, in which there is no actual sale, but the general prohibition against abduction, arbitrary arrest or detention still applies to some cases of slavery. It is also plausible that the courts could interpret certain circumstances, such as the sale of a person's debt with an understanding that it must be worked off through forced labor, as a form of "selling a person as a slave."

Other, more modern provisions of Congo's criminal law apply more consistently to the cases of modern slavery uncovered during the research described in this report. Congo's law against sexual violence, enacted in 2006, addresses cases that include a sexual (or marriage) component.[47] Table 1 shows the most relevant crimes and the minimum and maximum lengths of imprisonment that apply.

42 Sec 1; Art 1(c) of SCAS; Art. 16(2) of UDHR; Art. 23(3) of ICCPR; Art. 10(1) of ICESCR; Art. 16(1)(b); 16(2) of CEDAW

43 Art. 7.1.g of the Rome Statute; Art. 3a of TIP.

44 Art. 1(d)(iv) of SCAS; Art. 2, 3, 5 of MAC; Art. 2 of WFCL.

45 Constitution of the Democratic Republic of the Congo, Arts. 16, 61(3), and 61(6).

46 Congolese Penal Code, Vol. 2, Arts. 67, 68.

47 Congolese Sexual Violence Law, Law No. 06/018 (20 July 2006), amending the Penal Code.

Table 1. Congolese Sexual Violence Law

Infractions	Penalty	Penalty when the victim is under the age of 18
"forced prostitution" including by force, threat of force, coercion or exploitation of an incapacity to consent freely[a]	3 months–5 years	
sexual slavery[b]	5–20 years	
use of a child in prostitution[c]	n/a	5–20 years
"forced marriage"[d]	1–12 years	2–24 years
trafficking or exploitation for sexual purposes[e]	10–20 years	

a Congolese Penal Code, Art. 174c.
b *Id.*, Art. 174e.
c *Id.*, Art. 174n.
d *Id.*, Art 174f. The definition of forced marriage in the Congolese penal code is more conceptually narrow than definitions under international law.
e *Id.*, Art. 174j.

Congolese children are especially protected in law, if not in reality. In addition to the heightened penalties for crimes of sexual violence against children, Congolese criminal law also expressly prohibits acts of labor slavery committed against children. The child protection law, enacted in 2009, punishes the trafficking of children by 10-20 years' imprisonment.[48] It also prohibits the "worst forms of child labor,"[49] applying the internationally accepted definition, in general, and assigns a penalty of 1-3 years' imprisonment. The recruitment or use of children by armed groups carries a penalty of 10-20 years.[50] Child labor violations include labor that is likely to harm the health and safety of children, which under any reasonable interpretation would include work done under the unsafe conditions that prevail in eastern Congo's mines. Furthermore, a ministerial decree implementing the prohibition against worst forms of child labor stated that regular manual transport by children constitutes a violation. The decree set maximum weight loads for "occasional" transport by 16- and 17-year-olds.[51] Many cases of transportation of minerals by children from, in, and around North Kivu's mines thus violate the decree because the transport is regular, not occasional; it far exceeds the maximum weight loads; and/or it is performed by children under 16 years of age.

The military penal code, which applies to members of the military, police and armed groups, punishes arbitrary acts against civilians or acts that are prejudicial to their individual rights and liberties with 4 years' imprisonment.[52] Thus slavery and slavery-related abuses committed by soldiers and police against civilians violate the military penal code as well.

48 Congolese Child Protection Law, Law. No. 09/001 (10 January 2009), Art. 162. This provision parallels the generally accepted international definition of human trafficking that applies to adult victims; however, the Congolese provision is narrower with respect to the trafficking of children. Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, Art. 3. Nonetheless, the DRC acceded to the Protocol on October 28, 2005, which means that it is bound to criminalize human trafficking as defined in the Protocol.

49 Congolese Child Protection Law, Law. No. 09/001 (10 January 2009), Art. 53. The definition of "worst forms of child labor" follows the international standard of ILO Convention No. 182.

50 *Id.*, Art. 187. (Both the sexual violence law and the law on child protection define a child as a person under 18 years of age, in conformity with international law.)

51 Ministerial Decree No. 12/CAB.MIN/TPSI/045 /08 (8 August 2008) fixing the conditions of child labor.

52 Congolese Military Penal Code, Law No. 024/2002, Art. 104.

The glaring gap in Congo's legislative regime against slavery is with respect to civilian acts of labor slavery against adult victims. While the labor code forbids "forced labor" as well as labor or services secured through threat of penalty and without consent,[53] neither the labor code nor the penal code implements the prohibition by prescribing a penalty. Nonetheless, many acts of labor slavery are accompanied by crimes under which the enslavers could be prosecuted, such as assault.

DEVELOPING INDUSTRY STANDARDS

The acts of slavery prohibited under international and Congolese law clearly apply to slaveholders who are physically present in Congo's mines. But what regime applies to multinational or local companies doing business along the international supply chain from the mines to our laptops and light bulbs, our pacemakers and precious jewelry?

A startling event occurred in Washington, DC in 2010: buried in the Wall Street reform law of 2010, the U.S. Congress included a DRC conflict minerals provision requiring publicly traded companies to disclose annually their "due diligence on the source" of conflict minerals originating in the DRC.[54] The law's goal is to ensure that the minerals trade does not illegally benefit armed groups or lead to widespread labor and human rights abuses in Congo.[55] As of this writing, all stakeholders await the final implementing regulation from the U.S. Securities and Exchange Commission (SEC). The SEC's initial proposed regulation on due diligence did not make specific reference to human rights abuses, instead focusing only on the illegal benefits to armed groups, but due diligence that overlooks slavery and related human rights violations is neither an acceptable nor durable solution, since these abuses may continue even after armed groups are removed from the mines.[56] Indeed, the aim of the law is to reduce such abuses; targeting the profits of armed groups is simply a means to that end.

Meanwhile, the Organisation for Economic Co-operation and Development (OECD), which has 34 member countries, has developed guidelines on the responsible management of conflict minerals.[57] The guidelines include a *Model Supply Chain Policy for A Responsible Global Supply Chain of Minerals from Conflict-Affected or High-Risk Areas*. Under the policy, a company sourcing from conflict-affected areas commits to "neither tolerate nor by any means profit from, contribute to, assist with or facilitate the commission by any party of... *any forms of forced or compulsory labour*, which means work or service which is exacted from any person under the menace of penalty and for which said person has not offered himself voluntarily; [or] *the worst forms of child labour*..."[58]

The UN Security Council and eleven African nations comprising the International Conference on the Great Lakes Region endorsed the OECD guidance document, which has also been backed by the private sector. Important

53 Congolese Labor Code, Art. 2.

54 The Dodd–Frank Wall Street Reform and Consumer Protection Act (Pub.L. 111-203), § 1502.

55 See *Id.*, § 1502(c)(1)(B)(ii).

56 See Letter to Mary L. Schapiro, Chairman, Securities and Exchange Commission, March 1, 2011, from 5 anti-slavery organizations, on file with Free the Slaves and available at http://freetheslaves.net/Document.Doc?id=241.

57 See OECD, "OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas," 2011, available at http://www.oecd.org/datao-ecd/62/30/46740847.pdf (last visited June 15, 2011).

58 *Id.*, pp. 13-16 (emphasis added).

momentum exists to harmonize the OECD guidance with industry due diligence initiatives like iTSCi (the ITRI Tin Supply Chain Initiative[59]) and the Conflict Free Smelter (CFS) program, a joint project of the Electronics Industry Citizenship Coalition (EICC) and the telecommunications industry's Global e-Sustainability Initiative (GeSI). Another beginning was made by the World Bank, which has been working with the DRC government on a technical assistance project known as PROMINES. This project aims to restructure the Congolese mining sector in an effort to increase the volume and value of mineral production, strengthen the management capacity of the state, and increase the benefits of mineral exploitation for growth and development.[60]

> ***"When slavery is within the products we use every day, consumers have a part to play as well."***

Finally, there may be criminal or other legal liability in the United States or other consumer countries, beyond the scope of this analysis, for companies who knew or should have known of slavery violations within their supply chain.

What is certain is that the motivation and momentum for businesses and governments to address the "conflict minerals" problem in eastern Congo has never been stronger—largely as a result of the Dodd-Frank Act. If that momentum is leveraged to ensure that severe abuses, including slavery and sexual violence, are rooted out through due diligence, support for community development, and other processes, then the law will have served its purpose.

59 For more on the ITRI Tin Supply Chain Initiative, see http://www.itri.co.uk/POOLED/ARTICLES/BF_PARTART/VIEW.ASP?Q=BF_PARTART_310250 (last visited June 15, 2011).

60 See World Bank Press Release No. 2011/005/AFR, "World Bank Approves a Grant of US$50 Million for Growth with Governance in the Mineral Sector Project (PROMINES) in the Democratic Republic of Congo," July 1, 2010 at http://web.worldbank.org/WBSITE/EXTERNAL/NEWS/0,,contentMDK:22636466~pagePK:64257043~piPK:437376~theSitePK:4607,00.html?cid=3001_2 (last visited June 15, 2011).

RECOMMENDATIONS

In pointing to potential solutions, it is essential to recognize the correlation between enslavement and poverty, insecurity, impunity and an absence of rule of law, lack of education and information, and the absence of rights-based norms. Addressing these structural dimensions requires adopting a holistic approach. When combined with efforts to address needs such as land tenure reform, security sector reform, accountability, good governance, and education, mineral extraction could fuel prosperity instead of conflict.

COMMUNITY-BASED RESPONSE

These children are able to go to their local school. Many others who have no choice but to work in the mines, can only dream of being educated.

Acting on all of these fronts may seem overwhelming. One way to design effective action is to focus on individual mining communities. In preparing interventions, it is crucial for community members at all levels not only to identify the highest priority issues to address, but also to take ownership of implementing and advocating for the solutions.

As a part of this research process, communities were presented with the initial research findings and asked what changes they felt were needed to end slavery. Broadly speaking, they reported that security and support for better livelihoods were necessary to reduce vulnerability to slavery, whether through improving the minerals trade or pursuing alternative livelihoods.

Needed improvements to the minerals trade included: the formation of workers' associations that would give workers a greater voice; information about workers' rights; increased transparency throughout the supply chain; creation of trading centers closer to the mining sites; and accountability for government officials charged with regulating the trade. Community members cited various other ways of improving access to alternative livelihoods, including vocational training centers and micro-credit programs, and facilitating the return to agricultural and animal husbandry practices. Access to schools was also identified as a need in these communities. Some communities particularly insisted on alternatives for women and girls, who otherwise are highly vulnerable to slavery and sexual violence upon being lured into the commercial sex trade for survival.

"WHAT CAN I DO ABOUT THIS?"

In order for things to change and for slavery to end in Congo's mines, a lot of people in different positions must take action—from the U.S. Secretary of State, Congolese and neighboring government officials, and corporate executives to consumers and community activists in Congo and around the world. Here are some important ideas about what can be done, arising in large part from discussions with community members and human rights activists living in and around Congo's mines.

CONGO'S NATIONAL GOVERNMENT:

- End impunity for modern slavery by enforcing Congo's laws, using both the military and the civilian justice system, including through mobile courts.
- Reform the Congolese army, and prevent army and armed group control of mines.
- Continue to introduce transparency into the mining sector, including through the positive initiatives of the International Conference on the Great Lakes Region.
- Protect artisanal miners from exploitation and slavery and implement licensing mechanisms for them, allowing them to benefit from their labors.

With the help of activists, leaders in this community are uncovering root causes of slavery in the mines and developing their own solutions.

- Remove children from harmful work in the mines and ensure the provision of free primary education in mining communities as elsewhere.

- Support rights-based community development efforts that will sustainably protect mining communities from slavery and other human rights abuses. In particular, consult with local communities to determine their priorities, which may include access to education, support for forming true mining workers' associations, and development of alternative livelihoods such as agriculture. Incorporate an understanding of slavery into the design of development and humanitarian assistance programs in mining communities.

NEIGHBORING GOVERNMENTS INCLUDING RWANDA AND UGANDA:

- Continue efforts to introduce transparency into the mining sector, including through the positive initiatives of the International Conference on the Great Lakes Region.

- Solve the problems that prevent Rwandan and Ugandan nationals in armed groups operating in Congo from demobilizing and returning home. Ensure that Rwandan and Ugandan nationals do not profit illegally from Congo's minerals nor provide assistance to illegal Congolese armed groups operating in mining areas in parallel to Congo's army.

MULTINATIONAL COMPANIES AND END USERS OF CONGO'S MINERALS:

- Continue efforts to introduce transparency into supply chains.

- Adopt due diligence policies that address risks of slavery within supply chains while maintaining engagement with the Congo mining industry and contributing to re mediation of the problems of slavery and conflict minerals at the source in Congo.

- Create industry-wide support for rights-based community development efforts that will sustainably protect Congolese mining communities from slavery and other human rights abuses, in acknowledgment that these communities have been devastated by activities that have contributed to company profits for more than a decade.

U.S. GOVERNMENT:

- Acknowledge your influence over Congolese and neighboring governments and make it a high priority to wield that influence so that they fulfill the recommendations above, amongst their other obligations to Congolese citizens. Appoint a Special Envoy to the Great Lakes Region to stay constantly informed and maintain consistent diplomatic pressure throughout the region.[61]

- Continue to support efforts to introduce transparency into the mining sector, including support for a federal bill requiring U.S.-based companies to disclose publicly their policies to address risks of slavery in their supply chains and other business operations.

- Support rights-based community development efforts that will sustainably protect mining communities from slavery and other human rights abuses. In particular, consult with local communities to determine their priorities, which may include access to education, support for forming true mining workers' associations, and developing alternative livelihoods such as agriculture. Incorporate an understanding of slavery into the design of development and humanitarian assistance programs in mining communities.

61 See Letter to Secretary of State Hillary Clinton from 17 advocacy and responsible investor groups, January 7, 2011; on file with Free the Slaves and available at http://www.freetheslaves.net/congo.

UNITED NATIONS PEACEKEEPING OPERATION IN CONGO (MONUSCO):

- Continue efforts to introduce transparency into the mining sector.
- Deploy peacekeepers to protect civilians effectively throughout eastern Congo, including in mining zones that are being set up as pilot sites for legal and transparent conflict-free mineral trading.
- Prioritize the monitoring and reporting of modern forms of slavery within your Human Rights and Child Protection sections, ensuring that all staff are well-informed about relevant international and Congolese laws. Maintain pressure on the Congolese government to respond to these abuses.
- Make it a high priority to wield your influence over Congolese and neighboring governments so that they fulfill the recommendations above, amongst their other obligations to Congolese citizens.

OTHER DONOR GOVERNMENTS, INTERNATIONAL AGENCIES AND INTERNATIONAL FINANCIAL AND DEVELOPMENT INSTITUTIONS:

- Continue your efforts to support transparency in the mining sector.
- Support rights-based community development efforts that will sustainably protect mining communities from slavery and other human rights abuses. In particular, consult with local communities to determine their priorities, which may include access to education, support for forming true mining workers' associations, and developing alternative livelihoods such as agriculture. Incorporate an understanding of slavery into the design of development and humanitarian assistance programs in mining communities.
- Make it a high priority to wield your influence over Congolese and neighboring governments so that they fulfill the recommendations above, amongst their other obligations to Congolese citizens.

CONSUMERS AND INVESTORS:

- Hold businesses and governments to account for taking action to remove slavery and conflict from product supply chains, without disengaging from purchasing source materials in Congo.
- Visit **FREETHESLAVES.NET** and **FTSBLOG.NET** for specific actions you can take today.

Indian Army peacekeeping troops in the DRC.
Photograph by Julien Harneis.

CONCLUSION

The bad news is that slavery still exists, both in Congo and around the world.

The good news is that we know from history, and from on-going work in other parts of the world, that slavery can be reduced and even eliminated. While no country has accomplished this completely, there are successes in discrete locales in countries like India where forms of slavery have persisted for generations. In many of these cases, communities took the first steps by finding their own strength to be able to resist oppression. No matter what external help and attention might come for a time, a community that has found the will, the understanding, and the courage to stand up for positive change is unlikely to slide back into the conditions that allow slavery.

Well-functioning modern democracies, as well as nascent ones, depend on community organizing for their lifeblood. Thus, rights-based community development is not simply a politically-correct or charitable

These friends have been enslaved in the mines for three years. Busho (left) wants to be president so he can help other children. Moise (right) wants to open a store or a barber shop.

undertaking, but is a strategic approach to ending slavery in the long run, by undercutting the vulnerabilities that lead to slavery—disempowerment, corruption, material and moral poverty, lack of education, violence and victimization.

There is still a role for outsiders to play. Using our power as citizens, consumers, corporations, and cooperating governments, we should pick a few mining areas to start. There, we can support community development and also bring concerted pressure to solve other problems at a local level—illegal armed groups and unreformed army units; unsupported, unresponsive, or corrupt officials and police; lack of schools; and local conflicts over land. When a strengthened community acts from the bottom-up while other solutions come through top-down pressure, a virtuous cycle will be created that allows significant social change—like ending slavery—to take hold.

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Free the Slaves Director of Programs, Karen Stauss (left) meets with activists from CREDDHO in Goma to research and plan next steps.

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