

# SECURING INSECURITY

## Semi-industrial gold mining and violence in Mwenga, South Kivu, Democratic Republic of Congo



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# EDITORIAL

## **Securing insecurity: Semi-industrial gold mining and violence in Mwenga, South Kivu, Democratic Republic of Congo**

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**Front cover image:** Miners working with a crushing mill, Moba territory (Tanganyika), February 2022

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# ABBREVIATIONS

AJEVOKA	Association des Jeunes Volontaires de Kamituga
ASM	Artisanal and Small-scale Mining
ANR	Agence Nationale des Renseignements
CEEC	Centre d'Expertise, d'Évaluation et de Certification des Substances Minérales
COMILU	Lugushwa Mining Coopérative
COOPEMEK	Coopérative Emmanuelle du Kivu
CPCAM	Coopérative Principale des Creuseurs Artisans de Mwenga
DRC	Democratic Republic of Congo
FARDC	Forces Armées de la République Démocratique du Congo
FEC	Fédération des Entreprises du Congo
ILRG	Integrated Land and Resource Governance program
ORC	Société Orientale Ressources Congo
PMH	Police des Mines et Hydrocarbures (Mining Police)
PNC	Congolese National Police
RCD	Rassemblement Congolais pour la Démocratie
SAKIMA	Société Aurifère du Kivu et du Maniema
SAEMAPE	Service d'Assistance et d'Encadrement des Mines Artisanales et à Petite Échelle
SOMINKI	Société Minière et Industrielle du Kivu
ZEA	Artisanal Mining Zone

# SUMMARY

This study examines the impact of semi-industrial gold mining on local conflict and security dynamics in the eastern Democratic Republic of Congo (DRC). It provides an in-depth analysis of the context in which semi-industrial gold mining companies have been established in Mwenga territory (South Kivu province) since 2017, and of their impact on the fragile security situation (Map 1).

The intersection between **conflict and gold mining in Mwenga began as early as 1997** when the gold mines of the Société Minière et Industrielle du Kivu (SOMINKI, a former state mining company) were overrun by artisanal miners and rebel movements. Two decades later, conflicts still persist in the area, causing Banro Corporation, the multinational company that acquired the majority of SOMINKI's shares, to cease its mining activities in 2019 due to violence against its employees. While Banro's industrial operations were paralyzed, gold mining by semi-industrial companies - often Chinese-owned - increased significantly. Between 2017 and 2019, six semi-industrial companies established themselves in the territory, including Congo Blueant Minerals SARL and Société Orientale Ressources Congo SARL (ORC) (Map 2). Since their arrival, local populations, civil society and state authorities have complained about these companies' behavior.

This report discusses how these semi-industrial companies have established themselves in Mwenga, as well as the impact of their practices on the security situation. The study uses the notion of **'practical norms'** to explain the companies' strategies to set up and secure their operations. 'Practical norms' refer to the gap between actual informal practices and the legal provisions that regulate the mining sector. It is a set of informal norms that underpin the practices of actors who deviate from official norms, notably the mining laws in this case. First, the practices of these companies do not abide by or adhere to the mining law and formal regulations governing the mining sector. Second, in order to acquire access to gold deposits, they sign partnership agreements with mining cooperatives, which serve as fronts for the companies. Consequently, the cooperatives do not act in the best interests of the artisanal miners whom they supposedly represent. To date, the details of these agreements remain opaque. Third, the mining companies continue to operate with the support of a vast predatory network involving state, customary, and military authorities at various levels.

In order to illustrate the complexity of these networks, this study presents **the different actors**, the challenges they face, as well as the strategies they have developed to navigate the gold mining sector.

The geographies where the semi-industrial miners work have become areas that operate outside of government control without mining taxation or traceability of mineral production. **State mining services and local authorities** do not dare to enter the mines because of heavy militarization in and around the mines through the deployment of large numbers of **soldiers of the national army (Forces Armées de la République Démocratique du Congo, FARDC)** and police, who are perceived as so-called 'Chinese guards'. This excessive presence of security forces also lies at the root of illegal taxation and has led to arbitrary arrests.

**Traditional chiefs** can be considered key actors enabling installation of semi-industrial companies in Mwenga. They have organized social dialogues to convince local populations to accept these companies' operations, dialogues often perceived as a way to silence, and even intimidate, the population.

At the heart of tensions surrounding semi-industrial gold mining in Mwenga are **civil society** actors who have been the main whistleblowers. The advance of semi-industrialization has however also led to the creation of multiple new civil society organizations and a climate of division between them. This does not happen by chance but is rather the intended consequence of a policy of 'divide and rule' developed by the mining companies and their supporters. The semi-industrial exploitation of gold has thus become one of the main **drivers of insecurity**, at times involving **local militias**. This insecurity manifests itself not only in terms of **physical violence**, but through the **destruction of the means of subsistence** of local populations.

In addition to the arrival of foreign-owned companies, the process of 'semi-industrialization' is characterized by the spread of quartz **stone crushers** in the artisanal gold supply chain of South Kivu. The introduction of hundreds of crushing mills at several ASM sites has changed labor relations and favored the emergence of local entrepreneurship with a direct impact on the production of gold. Unfortunately, these machines also cause accidents and a number of pollution-related illnesses. The spread of these crushing mills has also triggered conflicts with mining cooperatives. Even though these conflicts have not turned into violence, it does show that the mere process of semi-industrialization, in general, entails risks beyond the arrival of (foreign) mining companies.

Finally, the study highlights **long-term security risks**, as semi-industrial mining is a major source of predation, social destruction and conflict. First, semi-industrial gold **mining actors operate in well-established, powerful networks** that enable predatory behavior against local populations. Operating from the national capital of Kinshasa, the South Kivu capital of Bukavu, and at the mining sites, these networks involve state authorities, heads of the mining administration, the military and police, as well as customary authorities. It is thus hard to tackle this climate of predation. The second risk factor concerns the way in which semi-industrial gold mining **affects mining governance**, namely by creating areas where the State cannot control activities and production, by fostering suspicion over corruption by state and customary authorities, and **by making the gold trade more opaque**. Thirdly, a heavy price is paid in terms of **social cohesion** as semi-industrial gold mining creates deep divisions within local civil society and pits traditional chiefs against their own populations. Therefore, there is a risk of score-settling by dissatisfied populations in which local militias may become active. These risks urgently need to be addressed if the gold sector is to be beneficial to the DRC and its people.

The report concludes with recommendations that aim to address the negative impacts, conflicts and security risks associated with semi-industrial mining activities. They recommend a few actions that will encourage semi-industrial operators to comply with mining regulations and to promote peaceful coexistence between semi-industrial operators and local populations. Finally, they highlight the importance of raising local populations' awareness of their rights with regard to companies' mining operations.

# INTRODUCTION

Conducted in Mwenga Territory (South Kivu, eastern DRC) (Map 1) between December 2022 and January 2023, this study is part of a project intended to better understand the artisanal mining sector and conflict financing in the DRC<sup>1</sup>. This project is funded by the United States Agency for International Development's (USAID) Integrated Land and Resource Governance (ILRG) program. In December 2022, IPIS published a report providing a general overview of the links between armed conflict, insecurity, and natural resource exploitation in eastern DRC<sup>2</sup>. The project foresees three case studies in 2023 to further analyze these linkages. This report, which is a collaboration between IPIS and a team of researchers from the Institut Supérieur de Développement Rural de Bukavu (ISDR-Bukavu), is the first of these case studies and focuses on South Kivu province<sup>3</sup>. The series will be completed with a report on the security situation in Djugu Territory (Ituri Province), and one on roadblocks in North Kivu.



Map 1: Mwenga territory in South Kivu.

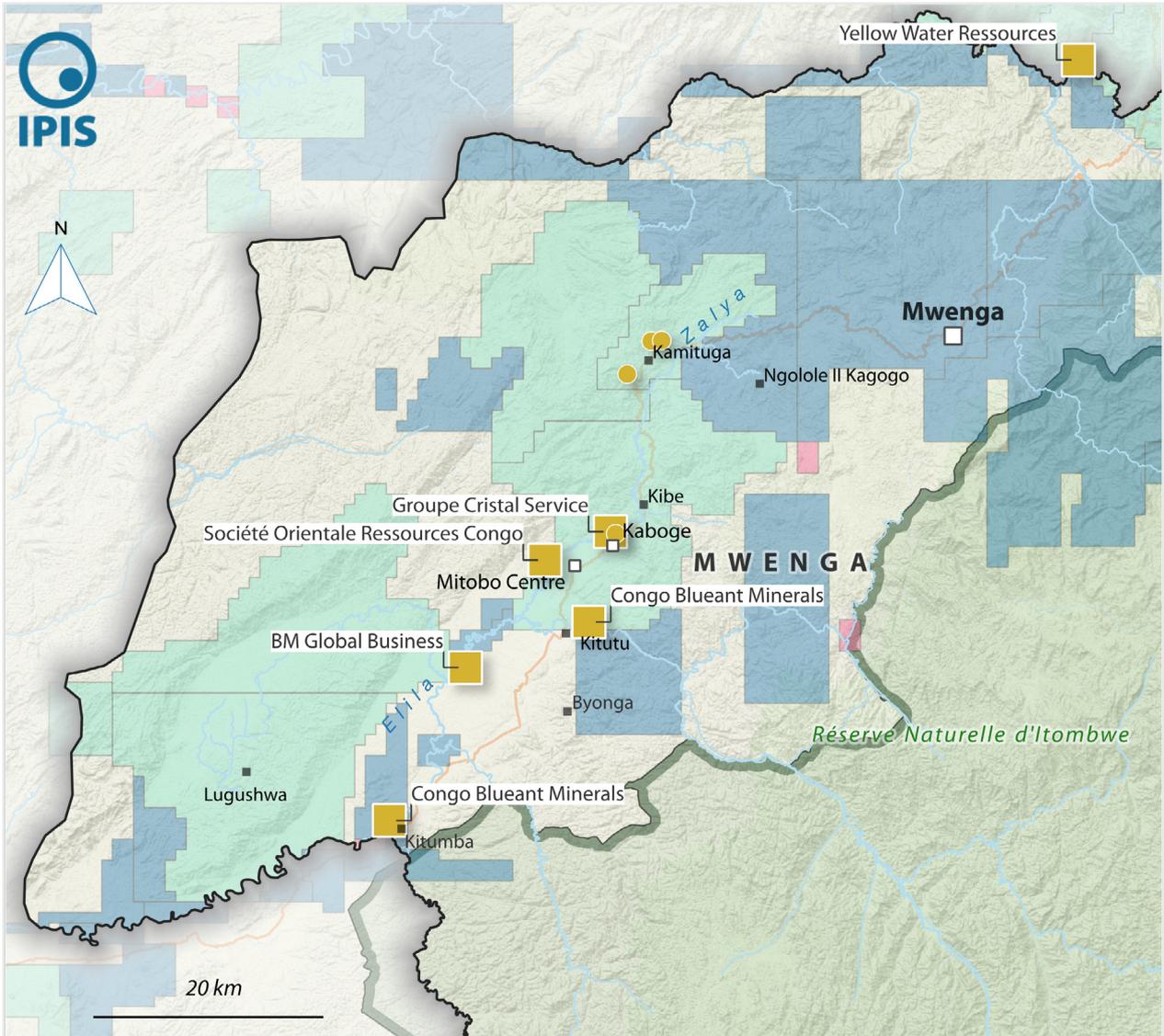
The main objective of this report is to analyze **the impact of semi-industrial<sup>4</sup> gold mining companies on security**, focusing on their interactions with local mining operators, local populations and militias. This study argues that these companies, who hide behind local mining cooperatives and follow opaque procedures to establish themselves locally, maintain a vast network of predation against local populations. The gold mining practices they develop illustrate the notion of political scientist Pierre Englebert that "as in colonial days, Congo is still understood more as a resource to be plundered than as a state to be built."<sup>5</sup> Besides representing a major challenge to mining governance, semi-industrial gold mining also fuels insecurity.<sup>6</sup>

Focusing on actors, their relationships and networks, **the study adopts a qualitative methodology approach** which assumes that these actors have the power, knowledge and experience to reflect on their situation, and respond to changes in their contexts and environments.<sup>7</sup> The study intends to demonstrate that semi-industrial mining in Mwenga is defined by **interactions between actors at different levels of power, who operate locally in a detrimental security context**. These interactions are also marked by practices of resistance against companies involved (more on this in section 4, under 'Local communities: the big losers'). Although these companies' installations are 'secured' by military and police officers, they have become a target for militiamen and local populations expressing their dissatisfaction. Rather than enforcing the law, these military and police are simply contributing to a climate of insecurity.

- 1 The project includes an update of IPIS' mapping of artisanal mining sites in eastern DRC, as well as a study on the links between insecurity and the mining sector (See project webpage).
- 2 Matthysen K. and Gobbers E. (2022) Armed conflict, insecurity, and mining in eastern DRC: Reflections on the nexus between natural resources and armed conflict, IPIS.
- 3 The author of this report is a Professor of Social Sciences at the Institut Supérieur de Développement Rural de Bukavu (ISDR-Bukavu). He would like to thank Michel Bazika Kizoni and Prince Milenge for their assistance with field research in Mwenga territory.
- 4 The Congolese mining code (Articles 97-114) calls this 'small-scale mining' ('l'exploitation minière à petite échelle ou de petite mine), in other words "a small-scale and permanent exploitation, requiring a minimum of fixed installations, using semi-industrial or industrial processes, after the discovery of a deposit" ("une exploitation de petite taille et permanente, exigeant un minimum d'installations fixes, en utilisant des procédés semi-industriels ou industriels, après la mise en évidence d'un gisement", mining code, page 10).
- 5 Englebert P. (2014), Democratic Republic of Congo: Growth for All?, Johannesburg: Brenthurst Working Paper 6/2014, p. 3.
- 6 In this regard, also consult Verweijen J., Schouten P., O'Leary Simpson F. and Zirimwabagabo P. C., (2022) Conservation, conflict and semi-industrial mining: the case of eastern DRC, IOB Analysis and Policy Brief 49, University of Antwerp.
- 7 Long, N. (2004), Actors, interfaces and development intervention: meanings, purposes and powers, In Kontinen T. (ed.) Development Intervention: Actor and Activity Perspectives, Helsinki: University of Helsinki, pp. 14-36.

The author interviewed miners, state authorities, military personnel (**Forces Armées de la République Démocratique du Congo, FARDC**), the intelligence service (**Agence Nationale des Renseignements, ANR**), as well as agents of technical mining services (**Service d'Assistance et d'Encadrement des Mines Artisanales et à Petite Echelle, SAEMAPE**). Members of civil society organizations in Kamituga, Kaboge, Kitutu, and Mela-Kakemenge were also consulted, as they have played a key role in protests against semi-industrial companies. Some interviews also involved direct victims of semi-industrial gold mining, such as members of the local communities who lost their fields. Additional information was collected in Bukavu from government services and former advisors to the provincial governor of South Kivu. Because of the sensitive nature of this study, the authors primarily did **individual interviews** in locations that ensured the safety of the researchers and respondents. Two main difficulties characterized this research. Despite initiatives to rehabilitate the National Road n°2, access to Mwenga-Kamituga-Kitutu is difficult in the rainy season. Additionally, apart from the mining sites where the crushing mills are installed, 'uninitiated' people, or, in other words, people who are not part of their networks of interest, are not allowed on the mining sites with semi-industrial exploitation.

Apart from the introduction and conclusion, this report is divided into six sections. The first section describes the wider context and history of gold mining in Mwenga territory. The second section describes the legal provisions related to mining and identifies gaps between these official provisions and 'informal practices' developed by semi-industrial operators. The third section explains the different types of semi-industrial processes in gold mining and their rise during the past decade in Mwenga. In section four, the report describes different stakeholders and analyzes their interests. The fifth section discusses the local dynamics of conflict and their security implications. Section six analyzes the impact of current developments on the local mining landscape in the longer term. Finally, the report concludes with recommendations that aim to address the negative impacts, conflicts and security risks associated with semi-industrial mining activities.



<p><b>Sites miniers aurifères</b></p> <ul style="list-style-type: none"> <li>● Artisanaux (Source : IPIS)</li> <li>■ Semi-industriels (Source : UN)</li> </ul> <p><b>Localités</b></p> <ul style="list-style-type: none"> <li>□ Chef-lieu de territoire</li> <li>□ Villages principaux</li> <li>■ Autres villages</li> </ul>	<p><b>Routes, rivières et limites</b></p> <ul style="list-style-type: none"> <li>— Routes principales</li> <li>— Rivières</li> <li>— Limites de la Réserve Naturelle d'Itombwe (Scénario 5)</li> </ul> <p><b>Concessions (CAMI, 2022)</b></p> <ul style="list-style-type: none"> <li>■ Permis de recherche</li> <li>■ Permis d'exploitation</li> <li>■ Zone d'exploitation artisanale</li> </ul>
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Map 2: Location of the semi-industrial exploitations in Mwenga territory (South Kivu).

# 1. THE TRADITION OF GOLD AND CONFLICTS IN MWENGA TERRITORY

Mwenga territory (in the center of South Kivu province) (Map 1) is an interesting area of study because of its complex mining dynamics at the intersection of the past, present and future.

Industrial gold mining in Mwenga began as early as 1923. The Société Minière et Industrielle du Kivu (SOMINKI) was created in 1976 to manage the mining concessions in the then Kivu province (the current provinces of Maniema, North and South Kivu). During the Congolese wars (1996-2003), **Banro Corporation**, a Canadian multinational company, acquired the majority of SOMINKI's shares. Banro's exploration and mining activities were however paralyzed, both by the wars of 1996-1997 and 1998-2003, and by a major legal battle between Banro and the authorities in Kinshasa.<sup>8</sup> The latter resulted in a 2002 agreement recognizing Banro's ownership over the Luhwindja, Kamituga, Lugushwa and Namoya gold concessions (Lugushwa and Kamituga permits, Map 2), while parastatal SAKIMA kept ownership of the tin concessions.

The intersection between local conflicts and gold mining dates back to 1997 when SOMINKI's mines were overrun by artisanal miners and by rebel movements, such as the Rassemblement Congolais pour la Démocratie (RCD). Between 2006 and 2019, Banro (through its subsidiaries Kamituga Mining SA, Lugushwa Mining and Twangiza Mining) conducted exploration and industrial exploitation. Despite the presence of Banro's subsidiaries, dozens of (illegal) artisanal gold exploitations emerged beginning 1997, attracting thousands of gold miners. In Kamituga, for example, the number of miners has since fluctuated between 10,000 and 15,000 or more.<sup>9</sup>

In September 2019, following financial difficulties and against a backdrop of protests by local communities (over the lack of impact on local development and over access to artisanal mines), Banro's subsidiaries ceased their operations. The difficulties were mainly due to violence against their employees, which paralyzed the Namoya gold mine (Salamabila, Maniema) where Banro (via Namoya Mining) had installed one of its largest gold processing plants.<sup>10</sup>

While Banro's industrial mining activities came to a halt, gold mining by semi-industrial companies - often Chinese-owned - has been growing strongly over the past years. In Mwenga territory, the first Chinese company (**Congo Blueant Minerals**) settled in Kitumba in 2017. In November 2019, Kamituga Mining SA signed a memorandum of understanding with another company,<sup>11</sup> **Société Orientale Ressources Congo SARL (ORC)**<sup>12</sup> (Map 2). The Secretary-General for Mines of the National Mines Ministry recognized the validity of this agreement in a note dated October 16, 2020.<sup>13</sup> **Criticism of the behavior of these semi-industrial companies** has increased since their establishment, including **complaints from local populations**. Various civil society actors and some Congolese state authorities have denounced their lack of legal permits and their disastrous environmental and socio-economic impacts (Map 3, including satellite images of these exploitation locations).

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8 The legal struggle between Banro and DRC authorities concerned irregularities in the liquidation of SOMINKI. Eventually, an amicable agreement was signed between the DRC government, Banro and the Société Aurifère du Kivu-Maniema (SAKIMA) on April 18, 2002. After the liquidation of SOMINKI on March 29, 1997, SAKIMA became its successor. It was officially created by decree n° 0035 of May 6, 1997.

For more details, see Geenen S. and Kamundala G. (2009), Qui cherche trouve. Opportunités, défis et espoir dans le secteur de l'or à Kamituga, L'Afrique des Grands Lacs, Annuaire 2008-2009, pp. 192-193.

9 Nkuba B., Zahinda Mugisho F. and Muhanzi Aganze G. (2021), Technologies (ir)responsables dans l'orpaillage : quels risques pour l'environnement et la santé ? Cas de Kamituga et Misisi, RDC, IOB Working paper/2021.06, University of Antwerp, p. 4.

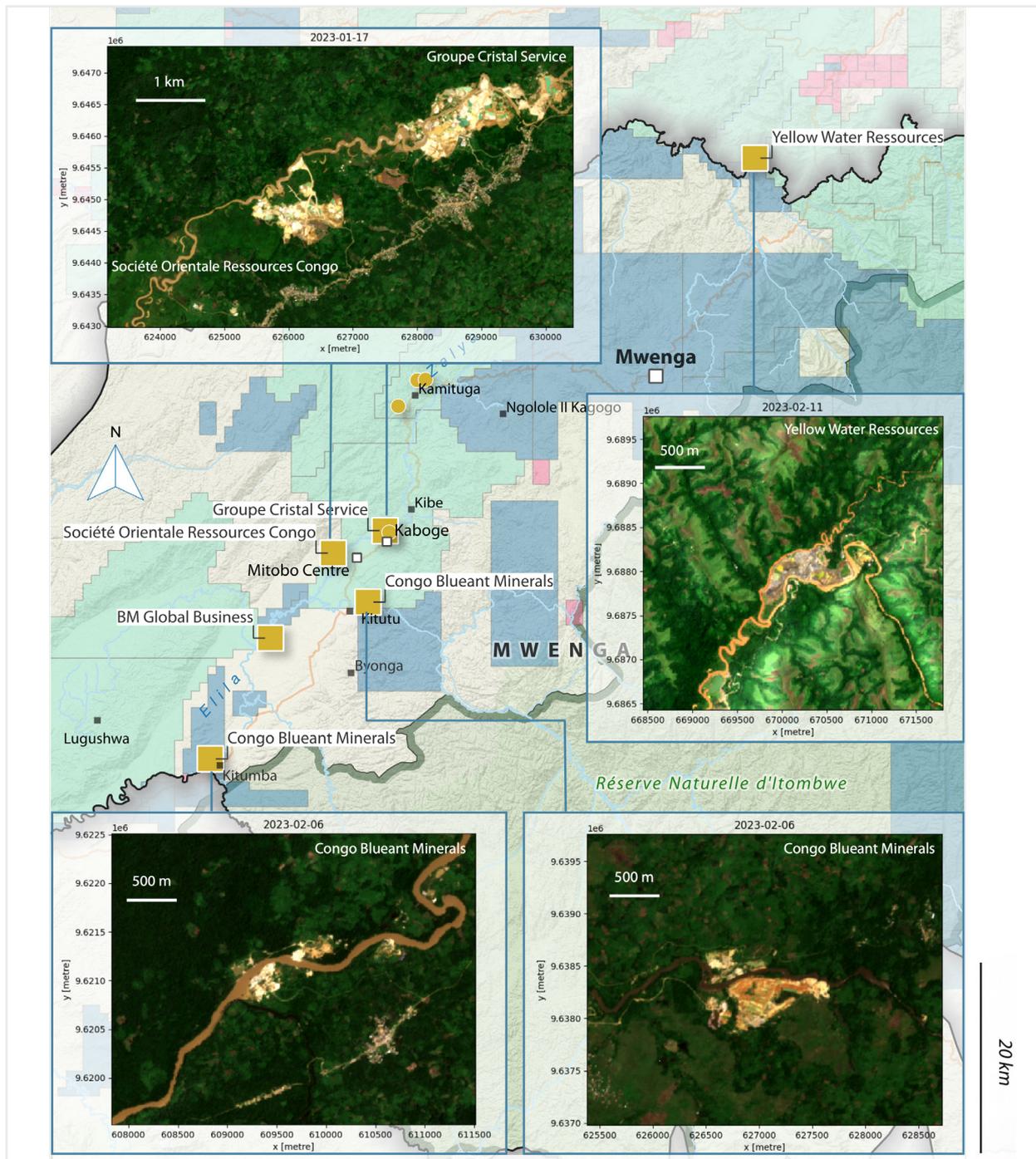
10 Verweijen, J. (2017), Luddites in the Congo? Analyzing violent responses to the expansion of industrial mining amidst militarization, City 21(3-4): 466-482.

11 On March 21, 2023, after the execution of the research for this study, Kamituga Mining SA demanded ORC - via two letters 'n°KAM/DG/0089/SJ/CM/2023' and 'n°KAM/DG/0093/SG/CM/2023' - to retreat from the mining sites it exploits in Mwenga territory, notably Kaboge, Sugulu, Mitobo 1, Mitobo 2, Nyamibungu and Ngoy/Kitutu.

12 A company registered in the Registre de Commerce et du Crédit Mobilier (RCCM) under the number CD/KIN/RCCM/14-B-04039/BKV/RCCM/19-B0602-RDC.

13 N/Ref: Bur/SG.Mines/IK.Y.Y/01/2353/2020

Almost all of Mwenga’s semi-industrial mining companies have signed collaboration protocols with (local) mining cooperatives. These cooperatives do not protect the interests of artisanal miners they supposedly represent but rather serve as fronts for the mining companies whose operations fluctuate between artisanal mining and semi-industrial exploitation. In addition, their opaque collaboration with the military and with strongmen (at the local, provincial and national levels), as well as the lack of control over their mining activities and the flow of their mineral production, are the main grievances voiced against them.<sup>14</sup> These frustrations have led to anti-Chinese sentiments, violence, kidnappings and human rights violations, in which both the military and militias have been involved.<sup>15</sup>



Map 3: Satellite images of the semi-industrial exploitations in Mwenga territory (South Kivu).<sup>16</sup>

14 Mwetaminwa J. and Vircoulon T. (2022), Un scandale sino-congolais. L'exploitation illégale des minerais et des forêts par les entreprises chinoises au Sud-Kivu, IFRI Note, IFRI.

15 Also consult in this regard, Verweijen J., Schouten P., O'Leary Simpson F. and Zirimwabagabo P. C., (2022), op. cit.

16 For the legend of the map, see the legend in Map 2.

## 2. PREVALENCE OF ‘PRACTICAL NORMS’

Mining in Mwenga is characterized by substantial gaps between actual informal practices of semi-industrial companies and the legal provisions that regulate the mining sector. Olivier de Sardan (2015:5) explains that ‘official norms’ are those that are formalized and explicit at the legal, professional and bureaucratic levels. In the DRC, these are the Mining Code - law n° 18/001 of March 09, 2018 - and the Mining Regulation of 2018, as well as a range of other laws regulating the mining sector. ‘Practical norms’, in contrast, are a set of informal, tacit, **de facto** or latent norms that underpin the practices of actors who deviate from official rules or social norms.<sup>17</sup> In the context of eastern DRC’s mining sector, it includes among other things the role of customary chiefs in allocating land, private protection by army units, patronage, and elite networks enabling to circumvent official rules.

To understand the ‘practical norms’ surrounding semi-industrial gold mining in Mwenga and how they fuel insecurity and opacity, the study examines six key aspects. These are (1) companies neglecting to consult with local communities; (2) lack of compensation for land owners; (3) mining cooperatives ignoring their role as an ASM actor; (4) removal of any state control over mining production; (5) militarization of the mining sector; and (6) poor management of the mining environment. Details on official standards, including the laws that officially regulate these issues, can be found in the following text box.

### Examples of official standards in the DRC mining sector

#### • Mining companies’ consultations with local communities

Article 19 of the Mining Regulation states that "the holder of a mining or quarrying permit must, within six months of the issuance of its mining title, organize consultations with the communities to negotiate and develop the cahier des charges". The ‘cahier des charges’ defines the responsibilities of the holders of mining rights vis-à-vis local communities affected by mining activities. In addition to this provision, Article 285 of the Mining Code provides for a minimum allocation of 0.3% of revenue for contributions to community development projects.

#### • Compensation

The law n° 11-2004 concerning expropriation for public utility, supplemented by the law of March 26, 2004, defines that in case of expropriation, the expropriated person is entitled to compensation. This compensation must be fair and equitable. Article 281 of the Mining Code stipulates that compensation for occupants of land must correspond either to the rent or to the value of the land at the time of its occupation, increased by half, i.e., 150%.

#### • Mining cooperatives

Mining cooperatives were created to bring together miners, to defend their interests, and they are supposed to be established in Artisanal Mining Zones (ZEAs), or in areas granted by a company holding the actual mining title (Mining Code, Article 30). In other words, the permit holder gives up part of the permit in favor of ASM.

#### • Control of mining production

Article 114 bis of the Mining Code also provides that "under penalty of withdrawal of their accreditation by the minister, the registered mining cooperative is required, in addition to the obligations provided for in Article 112 of the mining code, to transmit monthly production statistics to SAEMAPE and to compensate farmers for any damage caused by its activity." Additionally, according to the Mining Regulation (Article 218), to export raw material for processing outside of DRC, one must apply for an authorization by the ‘Direction des Mines’.

17 Olivier de Sardan J.P. (2015), Practical norms: informal regulations within public bureaucracies (in Africa and beyond), Discussion Paper 5: Africa, Power, and Politics Programme, London: Overseas Development Institute (ODI).

## Examples of official standards in the DRC mining sector

### • **The militarization of the mining sector**

In the DRC, the law prohibits the involvement of the military in the mining sector. Providing security in the mines is the responsibility of the Mining Police (Police des Mines et Hydrocarbures, PMH), a specifically designated unit within the National Police. According to the Decree of December 9, 2015 (Article 24), the PMH's mission is to: 1) maintain and restore public order in mining sites; 2) ensure prevention of infractions and law enforcement in the mining sector and; 3) support environmental protection and nature conservation.

### • **Environmental issues**

With respect to the management of the environment, the Mining Code (Article 42) stipulates that companies must prepare an environmental impact assessment (EIA) of their activities. Renewable every five years, companies are required to report to the Directorate for Environmental Protection in the Mining Sector (Direction pour la Protection de l'Environnement Minier, DPEM) on their risk management strategies and environmental protection measures.

All of these measures are intended to contribute to better governance of the mining sector and ensure its beneficial impact on local development.

The following sections demonstrate how semi-industrial operators bypass formal requirements and revert to 'practical norms', which undermines good governance of the local mining sector. These 'practical norms' prevail mainly because of the existence of informal arrangements and corrupt practices that characterize public administration. De Sardan (2015:12) notes that, unlike formal norms that are written down, 'practical norms' are not visible and are linked to everyday practices. This study relies on his analytical framework to explain the links between semi-industrial miners, conflict, and insecurity in the Mwenga gold sector today.

### 3. SEMI-INDUSTRIALIZATION PROCESS

Over the past ten years, gold mining in Mwenga has undergone a rapid development in terms of mechanization. Prior to 2011, thousands of diggers used rudimentary tools (shovels, picks, crowbars, etc.) to extract gold, crush quartz stones, and wash mineralized sand. Today, technological innovations boost production. Much of this technology is imported from neighboring countries, especially Tanzania.<sup>18</sup>



*Miners manually crushing gold ores, Moba territory.*

As of 2017, at least six companies (registered in DRC, but with Chinese capital) were established in Mwenga (mainly Wamuzimu chiefdom) to extract gold. These companies have brought machinery and various tools to facilitate the extraction and processing of gold, and have displaced artisanal mining activities in some cases. Nevertheless, artisanal miners continue to be engaged in the sector. In Kaboge, for example, where ORC is established, the abandoned waste of mineralized sand is subsequently washed by the artisanal diggers.

Three main types of tools are used in semi-industrial operations in Mwenga. First are the crushing mills used to crush and grind the stones extracted from the mining pits. The introduction of this technology predates the arrival of the high number of semi-industrial companies in Mwenga. The first crushers were already introduced in Kamituga in 2011.<sup>19</sup> Bikubanya and Radley note that "official statistics from the local SAEMAPE office mention 135 crushers in Kamituga by the end of 2020"<sup>20</sup>. According to the leaders of the Coopérative Principale des Creuseurs Artisanaux de Mwenga (CPCAM), two years later (early 2023) there were already around 1,000 crushers in and around Kamituga.



*Miners working with a crushing mill, Moba territory (Tanganyika), February 2022.*

18 Nkuba B., Zahinda Mugisho F. and Muhanzi Aganze G. (2021), op. cit.

19 Mulonda S. B., Radley B. and Geenen S. (2019), Arrêtez les concasseurs! Transformation, quasi-dépossession et répression autour de la production d'or à Kamituga, In Geenen S., Nyenyezi A. and Ansoms A., *Conjonctures de l'Afrique centrale 2019*. Cahiers africains 93. Paris, L'Harmattan, 158-186.

20 Bikubanya D.-L. and Radley (2021), Productivité et profitabilité: une analyse comparative basée sur l'impact de la mécanisation de l'EMAPE de l'Or en RDC, IOB Working paper/2021.08., University of Antwerp, p. 10.

The second series of tools used by semi-industrial companies consists of motor pumps, hydraulic excavators and machines used to wash the ores. Excavators make it possible to quickly remove overburden and to easily extract the mineralized sand and stones. The latter are then crushed and washed using crushing mills. This technology allows the extraction of a large amount of mineralized sand without needing a large workforce, but its use is devastating for the environment, as it destroys arable land, riverbanks and fishing ponds, and thus affects food production.



*Excavator loading a truck with mineral ore, Nyunzu territory (Tanganyika), September 2022.*

Finally, suction and chain bucket dredges are used in the Elila and Kitumba rivers. These dredges are rafts carrying equipment that allows the alluvial sediments to be sucked or dug up by a tube or a chain of buckets. The sediments are initially processed by gravity methods, including large sluices, and are then transported to the banks of the river where the next stages of ore processing to recover the gold take place. Dredging has a considerable impact on the river ecosystem, destroying sediment layers, banks and shores and increasing the river's turbidity, which affects the water quality.



*Dredge at the Lowa river near Yumbi, Lubutu territory (Maniema), March 2022.*

## 4. MINING STAKEHOLDERS AND INTERESTS

### 4.1. STATE SERVICES AND AUTHORITIES

With state agents – of SAEMAPE, the Mining Division or the Centre d'Expertise, d'Evaluation et de Certification des Substances Minérales (CEEC) – not daring to enter the semi-industrial exploitations due to the high level of militarization (Mwetaminwa and Vircoulon 2022:10), they become 'ungoverned areas' outside of government control and without mining taxation or mineral traceability. As one mining official put it: "We don't know what is going on there because we are ordered not to enter these mining sites. As a result, we don't know the production statistics or where these minerals are going"<sup>21</sup>. This is particularly true for the semi-industrialization processes led by the larger (foreign-held) companies (Table 1). It is, however, not the case for the artisanal mining sites where crushing mills are introduced by local entrepreneurs, such as the mining sites Calvaire and Mobale (see section 'crushing mill owners').

The respondent's quote above implies that there are orders coming from the administrative hierarchy, being the provincial and national, civil and military authorities. This is confirmed by the report of a parliamentary mission conducted in Mwenga from 8-14 September 2021, accusing high-ranking officials from the South Kivu provincial government, the military, police, and even the national administrations.<sup>22</sup>

Despite the recommendation of the President of the National Assembly that these individuals should be sanctioned, in late 2022 the situation on the ground had not changed (Figure 1, below). Moreover, according to several testimonies, some Kinshasa and Bukavu authorities (and many others) have "their people" assigned to the semi-industrial mining sites where an 'internal' sharing arrangement of gold production occurs.<sup>23</sup>

Shady dealings between (Chinese) gold mining companies and state authorities in South Kivu have been reported before. A report published in August 2015 by the Coalition of Civil Society in the Great Lakes Region against the Illegal Exploitation of Natural Resources (COSOC-GL) notes that "since its inauguration [in the territory of Shabunda] in the presence of local and provincial authorities in September 2014, a Chinese company called **Kunhou Mining Group** has begun mining in an area occupied by the Raia Mutomboki, using four fully mechanized chain bucket dredges. Despite the illegality of its operations, the Chinese company has close relations with the South Kivu authorities, especially the Ministry of Mines"<sup>24</sup>. The current business practices in Mwenga are clearly a mere continuation of 'practical norms' in the gold mining sector, which had already been implemented elsewhere in the province.

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21 Interview in Kamituga, 28-12-2022.

22 Note No. 002AN/PMNPC/2021 of November 30, 2021 on the report of the fact-finding mission on the illegal exploitation of natural resources and the destruction of the environment in the territory of Mwenga in South Kivu.

23 Interview with civil society actors and SAEMAPE agents, Kamituga and Kaboge, 28-12-2022.

24 Coalition de la Société Civile de la Région des Grands Lacs contre l'exploitation illégale des ressources naturelles (COSOC-GL) (2015), La ruée vers l'Or à Shabunda : Pratiques et impacts de l'exploitation minière par dragues, p. 1.

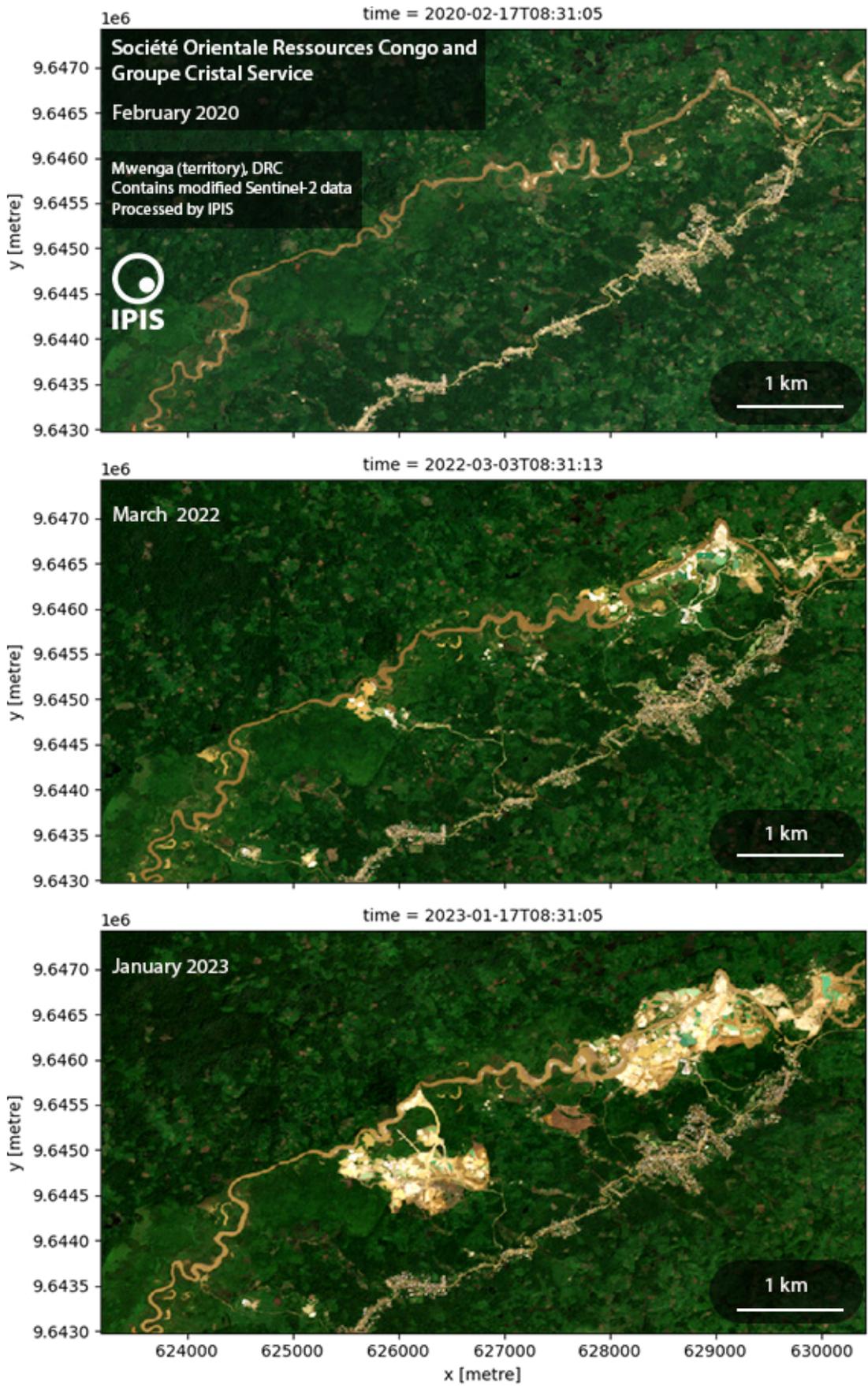


Figure 1: Satellite image showing the location and impact over time, February 2020 to January 2023, of the presence of the enterprises Société Orientale Ressources Congo SARL (ORC) and Groupe Cristal Service. The picture shows that despite recommendations of the National Assembly in 2021, exploitation has continued on a large scale throughout 2022.

## 4.2. SECURITY FORCES

The continued presence of security forces at the mining sites, for example at the semi-industrial operations of Kaboge, Mbelekelo and Kitumba (Map 2), as well as the artisanal site of Lupupu, illustrates that in spite of the recommendations by the National Assembly in November 2021, nothing has changed. A former advisor to the governor of South Kivu believes that the semi-industrial miners "even have the FARDC hierarchy in their pocket". In other words, they collaborate closely with the military authorities in Kinshasa, who probably receive dividends in exchange for protection.<sup>25</sup>

The number of military personnel present today at the mining sites is remarkable. At times it can go up to an entire company (nearly 100 soldiers). FARDC soldiers and elements of the Congolese National Police (PNC) have become the '**Chinese guards**' because their main role is to secure the companies' staff and installations, and to limit the access of 'outsiders' to the mining sites. In a letter dated December 10, 2022,<sup>26</sup> the Elila Basin civil society (in Wamuzimu Chiefdom) asked the PNC Commissioner in the Kakemenge locality to explain the presence of the military alongside the Coopérative Emmanuelle du Kivu (COOPEMEK), which is an ORC partner. No response was received. It is an illustration of the 'practical norms' in DRC's ASM sector. While PMH agents are mandated to provide security at mining sites, many stakeholders rather revert to the military.

The strong presence of security forces leads to high levels of **illegal taxation**, as these soldiers extort mining stakeholders (notably diggers and mineral traders) and others in the vicinity of the mining sites. At the Lupupu mining site, for example, soldiers from the 3306th regiment based in Kamituga and PMH agents demand 5,000 Congolese Francs (equaling US\$2.5) per week per crusher. Another example is the 10,000 Frc (US\$5) demanded every Wednesday from each pirogue used to wash the mineralized sand. Although there is no legal document to justify this tax, mining equipment is seized or people are arrested and detained until the requested sum is paid.

## 4.3. CUSTOMARY CHIEFS

The traditional chiefs (of the Wamuzimu chiefdom, as well as some of its **groupements** and localities) can be considered key facilitators for the establishment of semi-industrial enterprises in Mwenga. They are traditionally responsible to manage and allocate land, which is due to 'practical norms' still the case in many areas,<sup>27</sup> and they are often responsible for resolving local conflicts. Moreover, they are crucial to acquiring the necessary social license to operate. As such, the Mwenga traditional chiefs facilitate the local installment of the enterprises and enable their access to mining sites. Furthermore, they suppress local opposition against these exploitations. In 2021, the National Assembly accused the chief of the chiefdom of complicity in illegal exploitation.<sup>28</sup>

These practices, such as the ones denounced by the National Assembly in 2021, seem to continue to this day. Although the content of the agreements linking the mining companies to the chief of the Wamuzimu chiefdom is not known, the latter convened a series of social dialogues in July 2022, in Kaboge, Mitobo and Kitutu (Map 2). The purpose of these dialogues was to convince the local population to accept ORC's mining operations in the region. As the chief was present in person at these dialogues, one interviewee contemplated: "If the chief of the chiefdom is with the Chinese gold miners, what can a group leader, village leader or simple peasant do?"<sup>29</sup>

Sometimes customary authorities silence (and even intimidate) the population, to make sure they do not challenge semi-industrial gold miners. For example, in October 2022, the populations of Kitutu (the chief town of Wamuzimu), Sugulu, Mitobo and Kaboge threatened to organize peaceful demonstrations

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25 Interview in Bukavu, 11-01-2023.

26 (No. 013/SOCIV-B.E/12/2022).

27 Geenen S. and Claessens K. (2013), Disputed access to the gold sites in Luhwindja, eastern Democratic Republic of Congo, *The Journal of Modern African Studies*, 51, pp. 85-108, pp. 97-98.

28 See Note No. 002AN/PMNPC/2021 of November 30, 2021, discussed in more detail under the subheading 'State Services and Authorities' in Section 4.

29 Interview with village chief, Kibe, 7-01-2023.

against these operators. In a series of messages read out on Radio Mwenga, the interim administrator of Mwenga and the chief of Wamuzimu forbade these demonstrations, on the grounds that they risked destabilizing the security of South Kivu province.

However, while some chiefs of **groupements** have tolerated the arrival of semi-industrial companies, others do not support them at all. In a memorandum sent to the Governor of South Kivu on 24 February 2020, leaders of the **groupements** Babunga, Bawandeme, Bingili/Bazala, Basimbi and Babongolo threatened to leave the Wamuzimu chiefdom to create their own sector of the Elila Basin. On the same date, these leaders grouped together in the Zanzuka association ('let's wake up' in the Kilega language) and organized a peaceful march in Bukavu, to denounce the abuses of the Chinese semi-industrial companies endorsed by their chiefdom. Another march was planned for January 2023, this time in Kitutu. For the moment, it is difficult to conclude that the discontent has abated since the installation of semi-industrial companies continues to stir people's minds in Mwenga (more on this in section 5, under subtitle 'Mining companies and local communities').

#### 4.4. SEMI-INDUSTRIAL COMPANIES

**Table 1. Companies present in Wamuzimu chiefdom.** <sup>30</sup>

Company	Cooperative partner	Mode of operation	Location
<b>BM Global Business</b>	N/A	Dredges	Mbelekelo
<b>Congo Blueant Minerals</b>	COMIBI and Mungu ni Jibu	Dredges and open pit	Kitumba, Elila and Sugulu Rivers
<b>New Oriental Mineral</b>	N/A	Open pit	Sugulu, Nyamibungu
<b>Société Orientale Ressources Congo</b>	Lutonde	Open pit	Kitutu, Ngoyi, Mitobo and Kaboge
<b>Yellow Water Ressources</b>	N/A	Dredges	Lwindi River
<b>Groupe Cristal Service</b>	Lutonde	Open pit	Sugulu

Semi-industrial gold mining companies (mostly working with Chinese capital) arrived in Mwenga in 2017. There are three important issues around their establishment. First, some of the companies operate in areas covered by a mining permit (PE) held by Kamituga Mining SA (a subsidiary of Banro).<sup>31</sup> (These permits are visible on map 2). In late 2019, Kamituga Mining SA ceased operations in Kamituga, paving the way for speculation, and opaque (and at times illegal) arrangements in its perimeters. For example, Kamituga Mining SA signed a MoU with ORC, on 19 November 2019, which states (page 2) that "this memorandum of understanding is an atypical contract that is outside of the most common provisions under the legislation but respects its basic rules." This protocol aims to organize artisanal miners for a large exploitation, in accordance with the requirements and standards of the mining sector, but in reality, this has not been the case. Artisanal miners have been driven away from the mining sites where ORC and other companies are located. In a letter addressed to the manager of ORC,<sup>32</sup> the General Manager of Kamituga Mining SA prohibited ORC from taking any steps to establish an Artisanal Exploitation Zone (ZEA) on the mining permits No. 36, 37 and 39 (all held by Kamituga Mining SA).

30 Source: Ministère des Mines, Energies et de l'Environnement, note circulaire N°Ref : 001/CAB/MIN-PRO/MEE/SK/2021 du 16 Février 2021.

31 According to Mwetaminwa J. and Vircoulon T. (2022), op. cit., p. 12, these semi-industrial companies also exploit timber and transport it, under military escort, to Kamituga and then to Bukavu. This is done in violation of the Forestry Code, which stipulates (Articles 71, 97 and 107) that all logging must be subject to prior authorization by the forestry administration.

32 (N/ref.: MK/DG/0055/2022)

The second issue concerns the partnership between these companies and mining cooperatives. In principle, the cooperatives are supposed to be established in Artisanal Exploitation Zones (ZEA), or in areas granted by a company holding an exploration or exploitation permit, upon its authorization (Mining Code, art.30). In this case, however, Kamituga Mining SA did not concede these areas to cooperatives and their presence has been arranged through a number of informal arrangements ('practical norms'). However, it should be noted that the presence of mining cooperatives, and of artisanal mining operations more generally, on sites covered by exploration or exploitation permits is frequent in eastern DRC. This can be explained by tolerance of these practices by the mining administration, as well as by a lack of fitting ZEAs.

The third element relates to the administrative twists and turns around the installation of these companies. In December 2019, the vice-governor of South Kivu suspended the activities of Regal SK and Congo Blueant Minerals because these companies did not have exploitation permits. Then, in a circular note dated 16 February 2021,<sup>33</sup> the provincial Minister of Mines, Energy and the Environment issued a three-month moratorium, requiring all mining operators in Mwenga territory to comply with legal provisions.

In June 2021, the South Kivu provincial Ministry of Mines organized a mission to Mwenga to examine the legal compliance of the activities of foreign mining companies operating in the area. While the report explained that mining governance in Mwenga was "chaotic", it also noted the presence of soldiers (from the 33rd military region) at the mining sites. The report demanded the military commanders to evacuate the soldiers from the mining sites. This evacuation did not take place.

On 20 August 2021, following a report commissioned by the South Kivu governor<sup>34</sup>, the activities of Chinese companies in the territory of Mwenga were suspended.<sup>35</sup> (The companies however only interrupted their operations for a short time.) On September 2, 2021, the national Minister of Mines opposed this decision, stating that such an act was outside of the governor's competence. After several exchanges between the companies' managers and the national Ministry of Mines, on 23 June 2022, the governor of South Kivu decided to lift the suspension of the ORC company "requesting it to strictly respect the local communities' **cahier des charges**, while failing to do so will reactivate the measure"<sup>36</sup>.

Apart from ORC, it is not clear how the other companies (re)settled in Mwenga because, according to a researcher in the mining sector "this affair was hyper-politicized with a lot of pressure and opaque deals".<sup>37</sup> The resumption of activities by ORC has certainly not eased tensions. In his communiqué of 9 July 2022, the director of cabinet of the provincial governor mentioned (point 2) "various pressures from all sides ...". He was responding to the reactions of certain politicians from Mwenga, who criticized the resumption of mining activities by semi-industrial companies.

#### 4.5. CRUSHING MILL OWNERS

In Kamituga (Map 2), crushing mills were first introduced in 2011 at the mining site Calvaire, replacing manual labor that previously dominated gold production. By late 2019 when Kamituga Mining SA (the Banro subsidiary) ceased operations, these quartz stone crushers had been installed at other mining sites, such as Mobale, Kilobozi, Kalingi and Lupupu. As Bikubanya and Radley note: "These crushers are generally owned by traders and mining operators and, quite rarely, by the owners of the gold pits or mining cooperatives."<sup>38</sup> Other crushers are owned by local traders who are **de jure** buyers of the gold produced by their users.

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33 (n°001-012/CAB/MINI-PRO/MEE/SK/2021)

34 Chaired by the director of cabinet of the provincial Minister of Mines of South Kivu, the members were the Ministry of the Interior, the Mining Cadaster and the governor's advisor in charge of mines.

35 (Provincial decree n°21/081/GP/SK)

36 (Letter No. 275/CAB/GOUPRO-SK/2022)

37 Interview in Bukavu, 03-01-2023.

38 Bikubanya D.-L. and Radley (2021), op. cit., p. 10.



*Crushing mill on a gold mining site in Moba territory (Tanganyika), February 2022.*

The introduction of crushers has changed working relationships, favoring the emergence of new categories of activities and actors, and has promoted the payment of salaries where production-sharing agreements were more common before. These new roles include, for example, **machinistes**, experts in the use of crushers, **doyens**, who take the crushed product and transport it to be washed, and **ramasseuses** (pickers), which are the women who collect stones from the pits and transport them to the crushers. Although the use of crushers has fostered the emergence of local entrepreneurship with a direct impact on gold production, these machines are also the source of accidents and several pollution-related diseases.<sup>39</sup>

#### 4.6. CIVIL SOCIETY DIVIDED

Civil society organizations are at the center of tensions around semi-industrial gold mining.<sup>40</sup> While Mwenga's civil society, called '**forces vives**', used to be known for its effective activism,<sup>41</sup> a multitude of new structures also claim to be part of civil society since 2019. Two examples are the **Mouvement des Sociétés Civiles du Congo** (MSCO) and the **Société Civile Nouvelle Espoir** (SOCINE), which were founded in 2019. Within civil society's '**forces vives**', members are divided between supporters and opponents of semi-industrial enterprises. In a note dated 12 December 2022, addressed to the provincial

39 Nkuba B., Zahinda Mugisho F. and Muhanzi Aganze G. (2021), op. cit.

40 In order to better understand these tensions, the civil society coordination office Thématique Mines (supported by the Réseau d'Innovation Organisationnelle) organized a meeting in Bukavu from October 11-13, 2022, on the "general state of mineral exploitation in South Kivu, the case of the territories of Mwenga and Shabunda."

41 It was civil society which entered into a dispute with Colonel Tchiviri in Kamituga. For more details, see Wakenge C. I. (2021), The shadow state in the DRC: Gold, Taxation and networks of influence in eastern Congo, In The shadow state in Africa, Democracy in Africa.

coordinator of civil society in South Kivu, the president of the core group of civil society in the Elila Basin suspended some of its members, considering them as obstacles to local population's claims against semi-industrial gold miners.<sup>42</sup>

This development of civil society organizations and this climate of division is no coincidence. It is the consequence of a 'divide and rule' strategy developed by the mining companies and their supporters. The latter establish civil society organizations that favor the gold mining companies, and promote them to local communities while profiting financially from their tensions with the population. A good example is the Kaboge water supply project, inaugurated by ORC at the end of December 2022 and implemented by the **Association des Jeunes Volontaires de Kamituga** (AJEVOKA). Some interviewees questioned the relationship between ORC, AJEVOKA and **Wamuzimu Développement** (WADE), which they see as front organizations for Chinese mining interests.<sup>43</sup>

#### 4.7. LOCAL COMMUNITIES: THE BIG LOSERS

Article 19 of the Mining Regulation obliges mining concession holders to engage in consultations with local communities. In reality, semi-industrial operators in Mwenga do **not consult with the communities** but make (financial) arrangements with provincial and customary state authorities. These arrangements are rarely formal and constitute acts of corruption, which show no interest in the livelihoods of local people. An inhabitant of Kaboge testified: "I was a former director of an elementary school. In 2010, I gave up teaching to devote myself to agriculture, which I considered more profitable. I had bought a 2-hectare palm field and a fishing pond. When the Chinese gold miners arrived, they took everything and destroyed it. It was not them who gave me a US\$1,000 compensation, but rather an officer of the FARDC. The latter paid me this sum in two installments, telling me each time that the 'soil and subsoil belong to the state' and that I was free to accept or refuse the money"<sup>44</sup>. There are plenty of similar illustrations where 'practical norms', rather than legal obligations, define the consultation process and compensation, for example in Kaboge more than 100 households were expropriated by ORC.<sup>45</sup> The practice of land grabbing in South Kivu's mining areas generates land conflicts, as expropriated communities contest the compensation measures proposed by the companies that dispossess them of their land.<sup>46</sup>

Local communities have developed **practices of resistance**, including violence. For example, on 21 November 2019, three Chinese employees of Blueant Minerals were abducted in Kitumba by the armed group Mai-Mai Babembe, which belonged to one of the Yakutumba factions operating around the village of Byonga. They were released after payment of a ransom<sup>47</sup>. In order to create insecurity in and around gold mining sites, the same Mai-Mai sometimes launch armed attacks on these sites or in their vicinity, for example in early January 2023 at the village of Kibe, near Kaboge.<sup>48</sup>

Protest marches are yet another practice of resistance. Although often suppressed by FARDC soldiers and police, local populations and civil society's '**forces vives**' still try to organize them. The '**forces vives**' have also written several letters to provincial authorities denouncing the abuses of the semi-industrial operators. Finally, in December 2022, civil society actors created yet another organization to denounce the abuses by the miners, notably the **Association des Victimes des Exploitations Minières** (AVDEM) in the Mela-Kakemenge region. As explained in the next section, these complaints have led to violence.

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42 (n°14/SOCIVE/B.E/12)

43 Interviews with local youth, Kaboge, 27-01-2022.

44 Interview with a farmer in Kaboge, 6-01-2023.

45 Interview with the President of the Civil Society Core Group, Kaboge, December 22, 2022.

46 Bashizi A. (2019), *Articulations des exploitations minière et agricole face à la gouvernamentalité territoriale en RDC : Introduire la question forestière dans les débats*, *Conjonctures de l'Afrique Centrale* 2019, pp. 207-240.

47 Verweijen J., Schouten P., O'Leary Simpson F. and Zirimwabagabo P. C. (2022), *op. cit.*, p. 5.

48 Interview with a Kibe resident, 7-01-2023.

## 5. CONFLICTS AND SECURITY IMPLICATIONS

Semi-industrialization of the mining sector has an impact on conflict dynamics. First, there are conflicts between mining companies and local communities. Secondly, conflicts - albeit of a less violent nature - are also observed between the owners of crushing mills and mining cooperatives.

### 5.1. MINING COMPANIES AND LOCAL COMMUNITIES

Since 2020, the Wamuzimu chiefdom (South Mwenga) offers the best illustration of **tensions between semi-industrial companies and local communities**. In 2017, six Chinese-owned companies arrived in the area, in collaboration with their partner cooperatives. From 2019 to 2022, civil society has organized several major protest demonstrations in Kamituga, Kitutu, Kaboge, Mitobo, Sugulu, Mwenga-center and Lugushwa. These demonstrations denounced the harmful effects of the semi-industrial operators' activities, particularly with regards to their environmental impact (pollution of river water), as well as their lack of contribution to local development. Following these demonstrations, several ministerial delegations from South Kivu and Kinshasa, including the National Assembly and the **Fédération des Entreprises du Congo** (FEC), went to Mwenga to investigate. As explained in the previous section, these delegations unanimously concluded that there were serious legal irregularities surrounding gold mining by semi-industrial companies.

Tensions between companies and local communities persist for several reasons. First, the companies do not respect the '**cahiers des charges**' developed by local communities. In several places (Kitumba, Mela, Mitobo, Sugulu, etc.), communities feel that they have been cheated by the companies, which have been complicit with provincial authorities and local traditional chiefs whom they suspect of having received bribes.<sup>49</sup> For example, in Kaboge (in the Banakyungu groupement) where ORC is mining gold, the local populations' demands include five projects: i) the construction of a water supply system; ii) the construction of three bridges over the Zalya River; iii) the construction of an administrative office for the village chief in Kibe; iv) the construction of a vocational training center; and v) the granting of scholarships to local students. According to civil society actors in Kamituga, "it was due to pressure from the population, and not because of any real desire on the part of ORC, that the work to launch the water supply project was initiated at the end of December 2022"<sup>50</sup>.

Second, there are complaints over the **value of compensation** received. In Mitobo and Kaboge, for example, damages relate to the destruction of fields, fishing ponds and the relocation of artisanal miners. Although the local village chiefs were involved in the process of identifying the beneficiaries, "the compensation was only symbolic and arbitrary, for example between US\$400 and US\$500 offered to owners of fields measuring 1 hectare, US\$800 for those measuring 2 hectares, etc. They have not followed any legal procedure."<sup>51</sup> The report of the commission set up by the South Kivu governor confirms that "the compensation does not respect any law on the subject." In July 2020 and September 2022, this unilateral approach even provoked demonstrations by the inhabitants of Kaboge and Mitobo. These were suppressed by soldiers of the 3306th FARDC regiment.

Third, local tensions relate to **the impact of technological tools on the environment**. While river pollution is not a new phenomenon in the region,<sup>52</sup> it is aggravated by semi-industrialization. (Figure 2) For example, pollution in the Zalya and Elila rivers, bordering Kaboge, has become a major issue. In addition, the use of mercury, cyanide, nitric acid and pumps is responsible for the pollution of the air and waterways. In many studies conducted in the mining sector,<sup>53</sup> the technology used is shown to be very

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49 Interview with intelligence service officer, Kamituga, 6-01-2023.

50 Interview in Kamituga, 7-01-2023.

51 Interview with mining officials, Kamituga, 8-01-2023.

52 Nkuba B., Zahinda Mugisho F. and Muhanzi Aganze G. (2021), op. cit.

53 Nkuba B., Bervoets L., and Geenen S. (2019), Invisible and ignored? Local perspectives on mercury in Congolese gold mining. *Journal of Cleaner Production*, 221, 796-804; Seyler, J. R., Thomas D., Mwanza N. & Mpoyi A. (2010), Democratic Republic of Congo: biodiversity and tropical forestry assessment (118/119). Final Report, USAID/Democratic Republic of Congo.

harmful to the health of humans and aquatic organisms. In addition, mining sites see unprecedented levels of tree loss, causing a reduction in forest biodiversity.

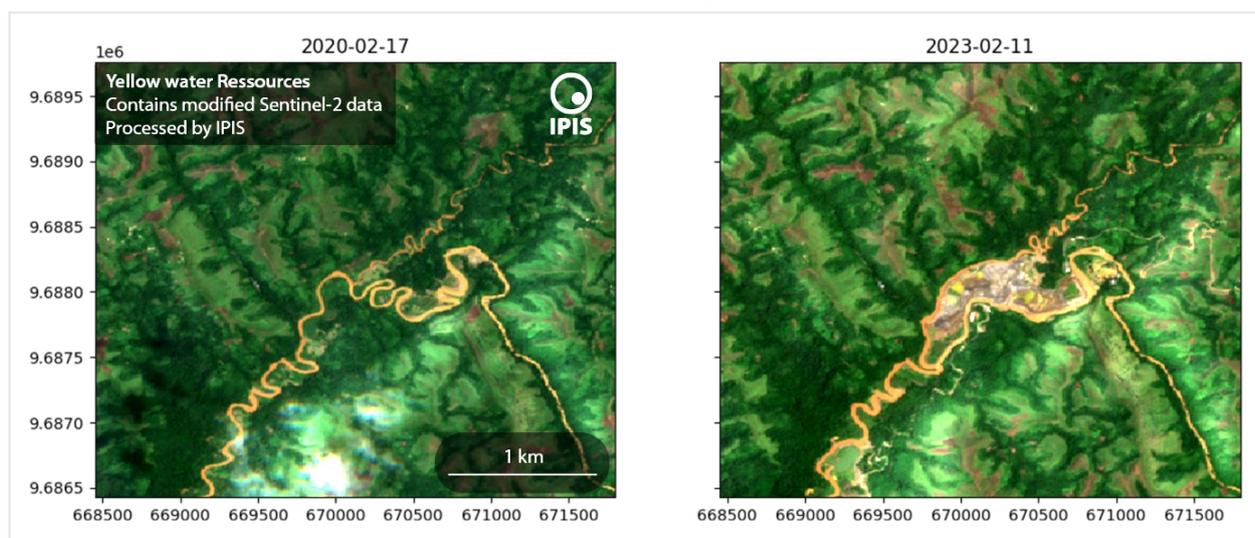


Figure 2: Satellite image illustrating how the company Yellow Water Ressources diverted the river Lwindi.

## 5.2. CRUSHING MILL OWNERS AND MINING COOPERATIVES

The second dimension of conflict concerns **the strained relationship between crushing mill owners and mining cooperatives**. As noted earlier, the introduction of crushers in Kamituga changed labor relations, production and revenue distribution.<sup>54</sup> While **mamans Twangaises** used to crush quartz stones, crusher operating became a new trade in the local mining landscape. The relationship of these operators with mining cooperatives merits attention. Cooperatives were created to bring together miners to defend their interests. In Kamituga, the oldest of these cooperatives is the **Coopérative Principale des Creuseurs Artisansaux des Minerais de Mwenga** (CEPACAM), which was created out of the **Comité des Orpailleurs de Kamituga** (COKA). Until the beginning of 2022, the owners of the crushers were considered members of these cooperatives. As such, they paid an installation fee to the cooperatives, equivalent to US\$250.<sup>55</sup> However, in order to free themselves from their dependency, the **crushing mill owners** created their own association in February 2022, and **refused to be managed by the cooperatives any longer**.

There are two reasons for this. First, according to the coordinator of the crushers' association, the mining cooperatives **did not properly defend their interests**, as the crushers faced a multitude of taxes imposed by state services. Bikubanya and Radley note that "the costs of using the crushers also relate to the taxes paid by the owners to the mining administration. These include taxes paid to SAEMAPE valued at US\$50 per month (or US\$600 per year), the tax paid to the Mining Department (**Division des Mines**) worth US\$250-300 per year, the tax paid to the energy department worth US\$50 per year, the tax paid to the chiefdom (**droit de terre**) worth US\$90 per year, and the tax paid to the mayor's office worth US\$200 per month (or US\$2,400 per year)."<sup>56</sup> The second reason relates to a procedure at the Kamituga court and the mining police, namely a case opposing the crushing mill owners against Kamituga Mining SA.<sup>57</sup> As this case is still not being pursued by the Bukavu prosecutor's office, those in charge of the prosecutor's office and the commander of the Kamituga national police preferred to make direct financial arrangements with the owners of the crushers (rather than the cooperatives), to secure their operations.

54 Dunia Kabunga P. and Geenen S. (2021), Transformations technologiques et régimes de travail dans L'EMAPE au Sud-Kivu, RDC, IOB Working paper/2021.04, University of Antwerp, p. 13.

55 This amount was divided between the Wamuzimu chiefdom, the Baligi group and the membership cooperative.

56 Bikubanya D.-L. and Radley (2021), op. cit., p. 12.

57 For more details on the issues around the crushers in Kamituga, read Mulonda S. B., Radley B. and Geenen S. (2019), op. cit.

## 5.3. SECURITY IMPLICATIONS

### 5.3.1. Role of the FARDC

Semi-industrial gold mining has a substantial impact on security dynamics. We have already mentioned the companies' **practice of 'private protection'**. Wherever they operate, the semi-industrial gold miners (mostly Chinese) are guarded and protected by the FARDC or the PNC, with soldiers from the 3306th regiment based in Kamituga, or assigned directly by the 33rd military region of South Kivu. This 'protection' is not for free. Soldiers and police officers are assigned to the mining sites in exchange for financial compensation. This was also observed in the province of Ituri,<sup>58</sup> where each soldier assigned to the 'Chinese' mining sites receives between US\$150 and US\$250 per month, half of which is paid to the military commander. Also in Mwenga, the presence of security forces in the mines goes back several years and has been the subject of numerous denunciations. Therefore, one might wonder whether the senior military officers based in Kinshasa are not aware of this presence.

There are so-called '**Chinese territories in the DRC**', and particularly in Mwenga,<sup>59</sup> as the military and police prohibit state agents from accessing mining sites. Under the Mining Regulation (Article 495), the holder of a mining permit can ask the Ministry of Mines for the establishment of a prohibited zone, but cannot de **facto** erect one as is the case in Mwenga. In semi-industrial gold mines, security forces forcibly evict farmers and fish farmers who refuse the 'compensation' offered to them.

Meanwhile, soldiers are also involved in gold mining themselves. For example, at the Kaboge mining site, they charge miners between 5,000 Frc and 10,000 Frc (US\$2.5 to US\$5) as an entrance fee to wash the residuals left by the company ORC. Additionally, these soldiers also erect roadblocks in and around the mining sites where they extort passersby. For example, between Kamituga and Lugushwa, there are eight roadblocks (at Mobale, Elila, Tukenga, Kitumba, Nyangulube, Myasa, Kilunga and Mapale) where passersby pay 1,000 Frc (US\$0.5). In other places, some soldiers committed serious **abuses, including human rights violations, against the civilian population.**<sup>60</sup>



*Miners processing tailings (residuals left by a semi-industrial company) of the mining site 'Dieu Merci', Watsa territory (Haut-Uele).*

58 See for example, Wakenge C. I. (2022), N'as-tu pas besoin d'argent? Artisanat minier et conflits autour de Nia-Nia en Ituri, IPIS.

59 Foka A. (2021), Chronique : En finir avec la traite négrière en Afrique ( <https://www.youtube.com/watch?v=WF01zfB5nrQ&t=1807s>).

60 See for example (Attention, shocking image): <https://www.hapamedia.net/blog/2023/01/10/sud-kivu-un-homme-moleste-par-des-militaires-commis-a-la-garde-des-chinois-a-mitobo/>

The military is also responsible for **repressing marches and other demonstrations** against semi-industrial operators, on the pretense that these popular demonstrations might pave the way for Mai-Mai militia, as some factions still circulate in the region. The logic of securing insecurity is therefore well established. In order to intimidate resistance, the military takes civil society's '**forces vives**' for Mai-Mai.<sup>61</sup> Consequently, several local civil society actors are living in fear and "no longer sleep in their homes for fear of reprisals," following the example of a civil society representative from the Elila basin, who was severely beaten by FARDC soldiers on 30 July 2020. Furthermore, on 29 December 2022, after a violent protest by the population of Mela-Kakemenge (20 km west of Kitutu) against the establishment of two ORC partner cooperatives (Mungu ni Jibu and COOPEMEK), the same civil society representative received a summons from the South Kivu intelligence service ANR. The purpose was clearly to further intimidate him.<sup>62</sup>

### 5.3.2. The 'JKK Police'

The other security dimension related to industrial operations concerns **a police unit called 'Police JKK'**. The name 'Police JKK' refers to former DRC president Joseph Kabila Kabange, who was also known as JKK. Probably, this nickname is used to intimidate the local population, making them believe that they are police officers linked to the ex-president. This special unit, which originates directly from Bukavu and is sometimes perceived as FARDC, has been present in Lugushwa since mid-2018. Its main objective was to secure the mining sites of Lugushwa Mining, the local subsidiary of Banro, which has relinquished its exclusive right to mine (see above). According to some sources, the 'JKK Police' are very powerful in and around Lugushwa. While there are two other police units, notably PMH and the Territorial Police, it is the JKK Police that controls the local mines. They charge miners a fee to access the mines and consider "Lugushwa moins le Congo," in other words, Lugushwa is not part of Congo. JKK police officers rule the area and don't seem to obey anyone's orders.<sup>63</sup> The JKK police example clearly shows the risk of this type of security strategy in gold. In the context of weak governance, such police unit is able to structurally sustain a climate of predation of the local population.

An additional security issue with regards to 'JKK Police', is the fact that it is presented as an ally of COOPEMEK and **Mungu ni Jibu**, both of whom have unsuccessfully tried to establish themselves in the mines of Lugushwa. These two **cooperatives are contested** by local communities for two main reasons. First, they were not created by local mining operators: COOPEMEK is based in Kinshasa and **Mungu Ni Jibu** in Kaziba (Walungu territory). Second, community members fear that these two cooperatives do not recruit local workers and that they have little impact on local development. According to some interviewees, it is rather the Lugushwa Mining Cooperative (COMILU) that is supported by the local communities because it is led by a native of the area.<sup>64</sup>

### 5.3.3. Violence and armed groups

**Militia groups** also play a role in local security dynamics. According to an actor from the '**forces vives**' of Wamuzimu, at least 11 people have already died as a result of **conflicts** between semi-industrial gold miners and the population.<sup>65</sup> While these deaths are linked to killings by armed men, they are also caused by the frustrations of farmers, fish farmers and diggers who have suffered from ill-judged compensation that was unilaterally imposed on them.

In addition, there are also cases of **armed attacks on the installations** of mining companies. For example, in August 2022, Mai-Mai Babembe militiamen from Byonga village came to Mitobo with the intention of looting weapons from a FARDC post guarding a Chinese camp. They were unable to gain access and one of them was arrested by the FARDC. On 13 July 2022, in Kaboge, a group of armed men

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61 Interview with village chief, Kitutu, 7-01-2023.

62 Interview with civil society representatives, Kitutu 7-01-2023.

63 Interview with gold miners in Lugushwa, 27-12-2022.

64 Interview with SAEMAPE officer, Kamituga, 5-01-2023.

65 Interview with civil society representative, Kibe, 5-01-2023.

believed to be Mai-Mai militiamen again coming from Byonga, unsuccessfully attempted to loot a vehicle believed to be carrying gold. Recently, on 2 January 2023, in Kibe (15 km south of Kamituga), businesses were looted by armed men. Two armed groups are often blamed for these attacks: the Mai-Mai Nakiliba, based in Kagogo in the Lwindi chiefdom and in Mulambozi in the Wamuzimu chiefdom, and Mai-Mai from a branch of Yakutumba, operating in and around Byonga village.<sup>66</sup> The latter group kidnapped three Chinese gold miners who were later found in the vicinity of Mukera (Fizi) in 2021.

## 6. LONG-TERM IMPACT

Although in South Kivu, "the introduction of new technologies has had a significant impact on the productivity of ASM gold, and its profitability"<sup>67</sup>, this study shows that these technologies are also a major source of predation, social destruction and conflict.

First, semi-industrial gold mining actors **operate within a large network** that enables predatory behavior to persist. From the Congolese capital of Kinshasa to Bukavu and the mining sites, these networks involve state authorities, heads of mining departments, the military and police, as well as customary authorities. Despite a series of recommendations by the National Assembly demanding sanctions against several of these actors, none of them have been prosecuted to date. On the contrary, these networks persist and are very well organized. Moreover, almost all of the companies that were suspended in August 2021, have returned to the mining sites, sometimes under new names, and make use of the same much-decried security arrangements. It complements the analysis of Reno (2000) and Nordstrom (2004),<sup>68</sup> who examine how 'shadow networks' have been built in some war-torn African countries around a wide range of non-state actors and transactions. Gold mining in Mwenga has rather resulted in the consolidation of networks, not shadowy but quasi-official, built around legally established authorities.

The second aspect concerns the impact of semi-industrial exploitations on **mining governance**. By creating spaces where authorized state services do not have access to control activities and production, by increasing suspicion of authorities' corrupt practices (state and customary), and by facilitating the informal gold trade,<sup>69</sup> semi-industrial exploitations have virtually destroyed mining (formal) governance. It seems difficult at present to reform this sector, given that the very people who are supposed to arbitrate mining conflicts and regulate the gold sector are, in reality, the players who incite conflicts and profit from illegal trade.<sup>70</sup>

Third, semi-industrialization has also seriously affected social cohesion, as it creates deep divisions within local civil society. In the case of the Wamuzimu chiefdom, there are also a number of rebel groups involved, so there is a risk of the 'settling of scores'. Furthermore, despite the military and police presence, insecurity still reigns around the semi-industrial operations. As one interviewee ironically put it, "for the Chinese (Enterprises), it is better to die rich than to stop mining gold."

An increasing number of armed actors hovering around these semi-industrial exploitations, risks destabilizing security in Mwenga. With the rise of '**private protection**' of mining operations, the militarization of mining sites has taken on an additional dimension. These practices go beyond the '**Divise en Deux**' logic analyzed by Vlassenroot and Raeymaekers when, in Kamituga, military officers of the **Rassemblement Congolais pour la Démocratie** (RCD) rebellion would provide protection to artisanal miners in exchange for profit.<sup>71</sup> The militarization currently being developed by semi-industrial

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66 Interview with intelligence service officer, Kamituga, 6 -01-2023.

67 Bikubanya D.-L. and Radley (2021), *op. cit.*, p. 1.

68 Reno W. (2000), *Clandestine economies, violence and states in Africa*, *Journal of International Affairs*, 53(2): 433-459; Nordstrom C. (2004), *Shadows of war: Violence, power and international profiteering in the 21st Century*. Berkeley/Los Angeles: California University Press.

69 Mwetaminwa J. and Vircoulon T. (2022), *op. cit.*, p. 13.

70 The author of this article has described a similar issue in the coltan sector of North Katanga: Wakenge C.I. (2018), *Referees become players. Accessing coltan mines in the Eastern Democratic Republic of Congo*, *The Extractive Industries and Society* 5 (2018) 66-72.

71 Vlassenroot K. and Raeymaekers T. (2004), « *Diviser en deux* » Or et identité sociale à Kamituga (Sud-Kivu), *L'Afrique des Grands Lacs*, Annuaire 2003-2004: 200-234.

companies is also no longer the same as the one described by Global Witness (2009), when the military raided mining sites and demanded payment in kind or cash from the miners. Local people's feeling of powerlessness in the face of what they call 'Chinese domination' entails serious risks of violence. One respondent put it this way: "We don't rely on the authorities anymore. We believe that the local people will take charge to put an end to all this".<sup>72</sup>

We understand from these comments that there is **a real risk of the emergence of new militias** or the radicalization of those that already exist. Finally, beyond physical violence, the insecurity linked to semi-industrial exploitation is also expressed in terms of the **destruction of local populations' means of subsistence**. According to some observers, the impact of the devastation caused by these operations on the environment and the ecosystem will not be easy to repair. This dimension requires further study.

## CONCLUSION

Through a series of publications in 2022 and 2023, IPIS aims to provide a detailed understanding of the links between armed conflict, insecurity, and natural resources exploitation in eastern DRC. In December 2022, we issued a first report looking at the dynamics concerned from an overall perspective.<sup>73</sup> The report concluded that there are three main factors explaining the link between mining and insecurity: (local) conflicts over access to resources; bad mining governance; and resources that provide opportunities for conflict financing. This study analyzes this complex relationship in more detail.

Its main objective was to analyze the security implications of gold mining by semi-industrial enterprises in Mwenga territory, South Kivu. Using the concept of **'practical norms'**, the study examined how these companies interact with state services and authorities, local traditional leaders, local community members, civil society representatives and militiamen.

The study highlights several key findings. First, **official norms** (in particular the requirements of the Mining Code and Mining Regulation) are **not respected** by semi-industrial mining companies. For example, they are setting up mining cooperatives, often contested by local populations, on mining areas covered by large-scale mining permits. Secondly, **compensation for populations** affected by their activities does not respect any legal procedure, while the same is true for the respect of the **'Cahier des Charges'** (i.e., contributions to local community development demanded by the population). Thirdly, the areas where these companies exploit gold are **not controlled by state agents**, and those state agents "do not know what is going on". The major reason for all three phenomena is that, at all levels, these companies have developed informal relationships – based on 'practical norms' – with several networks of authorities.

The **security dimension** related to the activities of the companies under scrutiny has three main aspects: the problem of the presence of the military and police on the mining sites to provide **'private protection'**; **attacks by militiamen** on the sites and areas bordering the mining sites; and insecurity resulting from the **destruction of means of subsistence** of the local population.

The report also revealed that the introduction of more mechanized production technologies, notably crushing mills, predate the arrival of semi-industrial companies in Mwenga. The spread of these crushing mills has also trigger conflicts, albeit less violent. Nevertheless, it does illustrate that process of (semi-) industrialization, in general, entails risks that need to be carefully monitored.

The outcry and protests against semi-industrial gold miners continue today, and it is clear that they have not brought peace to the Mwenga territory. This study clearly shows that semi-industrial gold mining causes opacity, incites social destabilization and creates long-term security risks. These risks urgently need to be addressed if the gold sector is to be beneficial to the DRC and its people.

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72 Interview with civil society actors of the 'Forces vives', Kitutu, 6-01-2023.

73 Matthysen K. and Gobbers E. (2022), op. cit.

## RECOMMENDATIONS

Preventing, and responding adequately to the negative impacts, conflicts and security risks associated with semi-industrial mining activities, requires several efforts from the Congolese government. These efforts should be made with a dual objective. Firstly, to encourage (and, if necessary, force) semi-industrial operators to comply with the mining code and regulations governing the exploitation of gold. Secondly, to foster peaceful coexistence between semi-industrial operators and local populations. In particular, this report recommends the following:

- Prior to any mining exploitation, and in accordance with the provisions of Annex VIII of the 2018 Mining Regulations, the State should require semi-industrial operators to conduct an Environmental and Social Impact Assessment (ESIA) accompanied by an Environmental and Social Management Plan (ESMP). This tool makes it possible to envisage measures to repair the damage caused to local communities and the environment, while also providing corrective measures in the event of mine site closure.
- The study shows that the demands of local communities (notably the 'Cahier des Charges') have not been respected, which creates tensions between them, semi-industrial operators and local militias. Under Article 258bis of the mining code, semi-industrial operators are required to pay 3% of turnover to contribute to local development.
- Military authorities should end the practice of 'private protection' for semi-industrial operators, which seems to fuel violence in and around mining sites.

All this is hard to achieve, given the involvement and complicity of certain authorities in the opaque operations of these enterprises. Another step is, therefore, essential. It involves raising local populations' awareness of their rights faced with companies' mining operations. The DRC government and (inter) national development partners should work with civil society, as well as local authorities (from chiefdoms, groupements, and villages) to document, develop and promote these rights in a fair and transparent manner.

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