

Research Article

Outline of the Practices Surrounding the Relocation of Local Communities by Local Mining Companies in Kolwezi: A Criminological Analysis

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Abstract

This article examines the relocation strategies of local communities by mining companies in Kolwezi, the Democratic Republic of the Congo, adopting a criminological approach. Using a qualitative methodology, the study identifies three main actors: the State, local communities, and international mining companies. State government bodies issue mining permits and oversee their enforcement. Local communities, facing land-related issues, experience relocations, whether voluntary or involuntary. Mining companies, as permit holders, raise ethical concerns, including the inflation of relocation costs, mining pressure, undervaluation of compensation, and even forced evictions. The results highlight land conflicts and economic influence in these relocations. In conclusion, the article advocates for a criminological approach to understanding the social and economic dynamics of local community relocation in the complex mining context of Kolwezi, suggesting a thorough reflection on the implications of these practices. Local communities often find themselves abandoned by the state, or they are tricked into paying compensation to find other places to live, but the local committee members, including the state agents assigned to the case, sometimes manage to embezzle the money donated by the company for the benefit of the communities affected by the relocation. That is the reason for this research, which can also be a denunciation on our part, as well as a plea on behalf of the victims who remain powerless in the face of these practices.

Keywords

Practices, Communities, Relocation, Mining Companies, DR Congo, Criminology, Land Conflicts

1. Introduction

Despite the fact that the soil and subsoil belong to the State, the right of use and enjoyment of rural land granted to local populations is often the source of conflict assets, both collective and individual, which abound in almost all the provinces of the DR Congo in general, and in the province of Lualaba in particular. Entire villages have been wiped off the map because of a portion of arable land that is disputed between local

communities and mining companies operating in this province, but which assigns ownership of the soil and subsoil to the State by law no. 80/008 of July 18, 1973 on the general system of property, land and real estate regimes and the system of securities, the Congolese legislator has converted the right of former landowners into a simple right of enjoyment.

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The decree-coordinates on customary jurisdictions dating from the colonial period remain in force, and highlight the procedure applicable before Congolese courts in the event of collective or individual land disputes governed by custom, the Law on the General Property Regime, the Land and Real Estate Regime and the Security Regime, promulgated in 1973 after the DR Congo gained independence on June 30, 1960, reaffirms the right of rural populations to use the land they occupy, cultivate, live on or exploit, either individually or collectively, in accordance with local customs and practices. However, as we have already stated, the soil and subsoil are the exclusive, inalienable and imprescriptible property of the State, as stipulated in article 53 of the Land Law. The travaux préparatoires of the Land Law stipulate that *"the State is recognized as having a right to land ownership exclusive of all others, and this right does not have all the recognized attributes traditionally associated with ownership, as the State does not have the power to alienate, which is the most important prerogative recognized to the right of ownership"*, so the right of enjoyment of local communities is based on the law and not on any dismemberment of the State's right of ownership of the land, which is exclusive, inalienable and imprescriptible.

The arrival of foreign private investors in the mining sector with operating permits means that they sometimes work and set up their facilities in areas where local communities are located. This situation-problem often requires the setting up of a framework for dialogue involving three parties of social actors, i.e. the State owning the mining sites, the mining companies holding the operating capital and finally the local communities, victims of economic and environmental hazards because they have to be relocated, assuming all the negative consequences such as the loss of their fields, crops, land... etc... In this tripartite, one category of stakeholders seems to be marginalized, among others including the local community. And this marginalization leads to conflict and victimization of one of the stakeholders (the local community). What are the practices surrounding the relocation of local communities by mining companies in Kolwezi? Is the thread running through this study, and we will approach our research from the angle of a qualitative approach. The present study falls within the field of mining conflict resolution and corporate social responsibility.

2. Methodology

The scientific approach followed in this research is qualitative. It is based on an inductive approach. In fact, our research is based on field data, such as the respondents' speeches and the observation of their practices. Starting from nothing, without hypothesis or prejudice, it is the actors themselves who will produce the data on the basis of which a systematic analysis will be carried out. The techniques of observation and semi-structured interviews enabled us to collect our empirical corpus [8]. We gradually constructed

anchoring stereotypes from the empirical data that could render intelligible the conflict under study between the COMMUS company and the local communities of MU-SONOIE that form our research field. To understand the practices surrounding the relocation of local communities by mining companies, a thematic analysis of the empirical data enabled us to identify two main themes, including the actors involved and their practices.

3. Results

3.1. The Stakeholders Involved

Mining in general involves three main categories of stakeholders, who sometimes have divergent and complex interests. These are the State, local communities and mining companies and their international subsidiaries.

3.1.1. State Actors

The State is the one that authorizes mining companies to exploit the mineral resources of its subsoil, in return for a share of the wealth created at its two main levels of central government and the provinces. The State acts through three main bodies: the legislature, the judiciary and the executive.

The State is made up of the national departments of each ministry (Mines and Hydrocarbons, Environment, Justice, Human Rights, etc.). It is responsible for ensuring a national role of conception, leadership, orientation and control. In particular, it is responsible for promoting the well-being of the population and ensuring that natural resource wealth benefits the entire Congolese population in general, and those of Lualaba province in particular, in an equitable manner.

As part of its control mission, the State ensures that the law is applied by companies and all government entities. This involves setting up monitoring mechanisms that are agreed with stakeholders.

The provinces and the Decentralised Territorial Entities (DTE) are both legal entities and administrations, representing the ministerial departments installed at central level. Decentralised Territorial Entities (DTE) are towns, communes, sectors and chiefdoms.

3.1.2. Local Communities

Local communities living on and around the territories hosting mining resources, accompanied by civil society players, the media and other social and religious stakeholders.

Positive Congolese law defines local communities as "populations traditionally organized on the basis of custom and united by ties of clan or kinship solidarity that underpin their internal cohesion. It is also characterized by its attachment to a specific terroir".

According to the draft international standard Initiative for Responsible Mining (IRMA), local communities affected by an industrial mine are:

“Communities of any size that are on or adjacent to the mining project area, and also those that are sufficiently close that their economies, rights or environments are significantly affected by the management activities or biological aspects of the mining project”.

Access to land is a key issue for industrial mines. At the same time, access to and use of land are survival issues for the majority of populations living in the vicinity of mining sites. Land-related damage in the context of mining is numerous, but as far as our work is concerned, we have obtained the following, when mining companies use explosives to destroy underground rocks.

According to article 3 of the Mining Code, land rights do not give rise to mining rights. More specifically, it states that the land concessionaire cannot use his title to claim any ownership rights over mineral deposits, including underground water.

3.1.3. Mining Companies

The issue of forced displacement of local communities during the development of projects for investment or other reasons has preoccupied several international and regional institutions. These are the holders of mining permits, which allow them to extract and trade the minerals authorized by Congolese legislation.

3.2. Practices Surrounding the Relocation of Local Communities by Local Mining Companies in Kolwezi (D.R. Congo)

To better understand the practices surrounding relocation, we have taken care to categorize the types of relocation based on the discourses of our respondents, cross-referenced with observations, thanks to thematic analysis. What we need to understand is that, in our research context, relocation is any situation of physical or economic displacement as a result of project activities that entails land acquisition or restrictions on land use.

We have categorized two types of relocation: voluntary and involuntary.

3.2.1. Voluntary Relocation

Voluntary relocation consists in the unconditional acceptance of a category of inhabitants who have accepted the relocation agreements and the amount they are to receive as compensation.

In view of the above, we have detected three practices in this involuntary relocation: acceptance of the agreements, willingness to carry out the agreements and fear of being exposed to projectiles.

(i). Acceptance of Agreements

After discussion and compromise on how the compensation is to be handled, some residents have decided to accept the

agreements so that they can seek shelter elsewhere without causing problems. This acceptance is based on the principle of amicable agreement between the parties involved. This is justified by the fact that this category of local residents understands the procedure and is satisfied with the amount the company has offered them.

This amount varies from thirty thousand dollars to one hundred and twenty thousand US dollars.

Mr. Yav, one of those compensated, told us:

“Our country is in a bad way, and they were the first to come to us to negotiate, so we agreed to talk to them. We have to take advantage of this money and invest elsewhere, lest tomorrow or the day after they change their position and the amount”.

From our respondent's discourse, we understand that the meeting of two actors (local residents and representatives of the joint commission) illustrates the creation of an immediate reality that sparks acceptance to such an extent that it becomes a condition for one of the parties able to grant them a certain advantage and for the other also an advantage.

Shows that immediate reality is created here and now, based on the values he possesses [6].

(ii). Willingness to Carry out Agreements

Willingness to carry out agreements is a logical consequence of accepting them, as communities who agree to move elsewhere show a willingness to carry out these agreements to avoid conflict with the law and the mining companies.

In the words of Dada, a respondent she met on a terrace in the G écamines City:

“We agreed to pay the money and leave the area, so why are we going to stay any longer? We don't want to be unpleasantly surprised by the police and public prosecutors. We don't want to be humiliated by these strange Chinese. We've already found a place to build and we'll be leaving by then”.

Points out that considerations of the importance or role of the actor are always at the heart of reflections and debates. But the status attributed to their points of view varies from one approach to another [7].

(iii). Fear of Exposure to Projectiles

The houses and buildings in the G écamines district are located on a subsoil that is being mined by the Commus company. The fact that industrial mining activities are taking place underground justifies the cracks in almost all the buildings in the area, and when certain underground rocks are blown up, the detonations directly affect and disturb the peace of mind of the inhabitants. Hence the fear of earthquakes, which is a daily occurrence, and the risk of injury from projectiles fired from furniture in house compartments. Faced with this constant danger, some residents decide to leave the area to save their lives.

Madame Ellen explained:

"Baba tunatshoka na tupata, kilashiku busubuyi, magari

surtout bushiku a tulale. Commus ana tu teswa. Ba kianze tupata mansani iko nanguka, bi bambashi miko na nguka; atupende kufa. Tuna jugé bon kwanda“

One of these sons adds:

“This situation scares us, and it's too risky and traumatic with the explosives. They surprise us especially at night, and there's no way we can sleep because we don't have a safe place to shelter from any projectile that might come from anywhere in the house.”

The perception of reality is experienced according to the actors and the way they conceive it. In this respect, points out that considerations of the importance or role of the actor are always at the heart of reflections and debates. The actor remains at the heart of knowledge production, and has always remained both the starting point and the essential referent of knowledge. His importance stems first and foremost from the fact that he is a being who knows, experiences and acts [7].

3.2.2. Involuntary Relocation

Relocation is said to be involuntary when the people affected have no right to refuse the acquisition or restrictions on land use that involve physical or economic displacement. This arises from legal expropriation or temporary or permanent restrictions on the use of land and settlements, negotiations in which the buyer may resort to expropriation or impose legal restrictions on land use, if negotiations with the seller fail.

Whether the relocation is voluntary or involuntary, the law provides for compensation of displaced populations, which means that mining companies must compensate or reimburse affected people for what has been lost (their economic, physical, temporary or permanent displacement). This means replacing lost assets or access to resources; restoring and improving means of subsistence. Compensation can be in kind or in cash. During our fieldwork, we were able to identify practices linked to the relocation of local communities by mining companies in Kolwezi. We were able to observe practices on both sides, i.e. those observed by the companies, representatives of the public authorities and local communities.

(i). The Overbidding of the Price of Relocation

The overbidding of the price of relocation in the process of evaluating and estimating the real estate value of houses targeted for demolition. Some residents feel they have been short-changed, so they are taking steps to restore the value of their homes by adding more rooms, a septic tank, enlarging the building or building a fence. This will add even more monetary value to the amount to be collected, as it will be on the rise.

A retired GCM teacher told us:

“Some of the parents of my former pupils collected a lot of money during the relocation because they had built up their houses with fences, septic tanks and had fruit trees in their plots. How am I different from them? This wealth belongs to all of us and I must take advantage of it. I'm in the pro-

cess of installing my septic tank and demolishing the left wing of my house to enlarge the space by adding more bedrooms. That way, I'll have plenty of money too”.

Justifies this by the fact that man situates what he is confronted with in relation to his experiences and the way he interprets them, in relation to the other constituent elements of the world around him, and reacts according to a strategy or, more precisely, a more or less explicit project that drives him (...) [4]. Under the term “social actor”, the subject is not an abstraction, insofar as he carries his own point of view, which depends on the position he occupies in the social framework, the history he has lived through, and the projects around which his activity is organized (...). Finally.

It is in the context of society or interrelationships that man is called upon to be an actor, i.e., to “act” or intervene, “that he finds himself confronted with rules, i.e., with a language in which it is important to express oneself, confronted also with the fact of being constantly caught up in the game of power and of experiencing, in his relations with others within or beyond these games, processes of recognition or non-recognition which seem essential in the elaboration of his own identity (...).

(ii). Pressure from the Mining Industry

After concluding agreements on compensation with the local communities, in this case the inhabitants of the Gécamines housing estate and the Musonoie district, the mining companies use intimidation and threats through the institutions of social control to precipitate and activate the relocation process before the deadline agreed by the stakeholders in the agreements.

This puts the inhabitants of these two districts in the embarrassment and uncertainty of rushing their departure without having completed the move by taking the construction materials from their buildings (salvaged materials).

Mr. Kalenga's collection explains the reality better:

“Ba chiniois, bari tu itshikiya asema tu bebe temps yetu yote mu ku bomona ma nyumba yetu naku beba bintu byetu mais tuna changa bana tu tumiya bantu yabo ku twelezeya bata tuma mazembe kuya ku bomona ma nyumba yote, na kama tuna katala bata tuma ba soda kuya kutu tosha”.

We translate into French to say:

“The Chinese have accepted that we take our time demolishing our houses so that we can recover our building materials, but to our astonishment they've sent us their delegate to warn us to leave before they send their machines and if we object; they'll send the police to make us leave by force”.

Our respondent's discourse perfectly illustrates the form of pressure coming from the mining actor who uses his position of strength, in a situation of interaction opposing the two categories of actor, we quickly perceive the reality around relocation through this practice which is mobilized by the mining actor. Argues, the social actor is not an active being; he acts according to his social position and his projects [4].

(iii). Minimizing the Compensation Price

This idea of making the bidding more fluctuating comes from the agents assigned by the mining companies to the valuation commission, who clandestinely come to see the inhabitants committed to relocation, opening up their memories in this way:

“Your neighbors are doing everything to get a lot of money and you're sleeping, fungula macho... you'll see clearly and we can help you”.

Through this discourse, some inhabitants have gone into debt to improve their buildings in order to collect more money than expected. Argues that it is imperative to consider actors' points of view, for it is through the meaning they assign to the objects, situations and symbols that surround them that actors construct their social world [3]. The author states that, in addition to the creative role played by actors in their lived experience, attention is paid to detail, so that on the one hand, social reality is constructed, and on the other, the significance of social objects derives from the meaning that actors confer on them in the course of interactions.

(iv). Forced Evictions

Points out that mining companies are likely to displace people from their sites, deprive thousands of miners of their main source of income, resort to precarious forms of employment or cause ecological damage [2]. On several occasions, their establishment has given rise, for various reasons, to actions and protests which some companies have not hesitated to repress violently with the support of police forces.

These practices refer to acts which result in the forced or involuntary displacement of those affected, without providing them with an appropriate form of legal or other protection, or allowing them access to such protection. A case in point, in the G écamines district.

Mr Jean-Pierre du Bois told us how it happened:

“The negotiation went well and they gave me a six-month deadline, they asked me if I wanted to take the materials I found usable and leave with... but to our great surprise, after three months, they came to tell us that we had to leave as soon as possible, otherwise the police would come and force us to leave. After a week, a jeep full of police and public prosecutors came to force us out of our house”.

In the words of this respondent, some people are not compensated for the real value of their house and the vegetation found there, there is no agreement with the people affected and involved on dispossession, and they are forced to leave their property (houses) by force or threat. This is how explain the idea that crime has an economic utility for the perpetrator [1], and how Gary S. Becker defended this thesis in his article: “crime and punishmad ou economic approach [5]. For economists, the criminal is a rational being like any other.

If he decides to commit a criminal act, it's because of the

utility he expects from the result. The criminal does so not because of his personality or external factors, but because he finds a higher interest in achieving his objectives by using illegal means than if he had to devote his resources and skills to doing so.

4. Discussion of the Results

The findings on the analysis of practices surrounding the relocation of local communities corroborate those of Rugarabura, N and Murhula, B [9], who analyze the legal nature of measures to relocate the populations of Twangiza for the benefit of Banro corporation. It appears that the relocation of populations can be qualified as a measure relating to de facto quasi-expropriation, veiled expropriation, which is similar to veiled or unnamed expropriation. The criminological approach highlights the conflicts linked to ownership, which are accentuated by the State's role in the planning process. Although the State has a monopoly on the granting of rights of use, the right of the first occupant loses its force in the face of the right of ownership in a context of industrial exploitation, which particularly benefits the State.

5. Conclusion

The aim of this study was to find out more about offshoring practices. To gather data for this study, we first used the inductive approach, which advocates fieldwork. Then we used semi-directive interviews and direct observation, which made it easier for us to make direct contact with resource persons in order to obtain reliable information. Finally, thematic analysis enabled us to analyze the data collected. We found that local communities' relocation practices are of two types: voluntary and involuntary. With regard to these themes, miners interact with local communities to obtain, with the help of the state, land rich in natural resources for mining activities. In this context, it emerges that the compensation process results in a relocation riddled with the voluntary and the involuntary.

Abbreviations

DTE	Decentralised Territorial Entities
DR Congo	Democratic Republic of Congo
GCM	Gecamines
IRMA	International standard Initiative for Responsible Mining
Mr	Mister

Conflicts of Interest

The authors declare no conflicts of interest.

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