

Research Article**THE INTERNATIONAL LEGISLATIVE PROTECTION AND SUSTAINABILITY DEVELOPMENT OF CULTURAL HERITAGE RESOURCES IN ARMED CONFLICT: CASE STUDY DEMOCRATIC REPUBLIC OF CONGO (DRC) EASTERN PROVINCE*****Dr. NIYIKIZA YOBOKA Henri**

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Abstract

The purpose of this research was to assess the International Legislative Protection and Sustainability Development of Cultural Heritage Resources in Armed Conflicts. It was carried out in eastern province of Democratic Republic of Congo with the following objectives: To find out the impact of armed conflicts on sustainability of cultural heritage resources, To assess on international legislative protection and sustainability development of Eastern province of DRC, and to identify the challenges of cultural heritage resources management in Eastern DRC. This research is significant to the researcher himself, to the politician, and to the great lakes region. The research used purposive and random sampling techniques. Literature review was used to create a strong understanding of what other authors has talked about the concepts of Legislative, culture heritage, resources and Armed. On the challenges of cultural heritage resources management in Eastern DRC, the research revealed The twin challenges of governance for the DRC are to provide security for all of its citizens and to build democratic, transparent, and accountable institutions capable of managing its enormous resource wealth for the benefit of its entire population.

Keywords: International Legislative Protection – Sustainability Development – Cultural Heritage Resources - Armed conflict — (DRC).

INTRODUCTION

The study is focused on establishing on international legislative protection and sustainability development of cultural heritage resources in armed conflicts, a case of Eastern Province of DRC. There is a strong positive relationship between armed conflicts and international legislative protection and sustainability development of cultural heritage resources. International law, also called public international law or the law of nations, the body of legal rules, norms, and standards that apply between sovereign states and other entities that are legally recognized as international actors (Britannica, 2022). Establishing and harmonize international laws creates a sustainable development that meets the needs of presents without compromising the ability of future generations to meet their own needs (IISD, 2022). Building a nation with heritage resources, cultural heritage landscapes, and archeological resources needs a political without armed conflict. The Democratic Republic of Congo (DRC) includes most of the Congo Basin region, an area of enormous wealth in terms of biodiversity, timber, and mineral resources. Despite this natural wealth, DRC is one of the poorest countries in the world with significant infrastructure deficiencies and economy that is highly dependent on agriculture and forestry. Violent and nonviolent conflicts linked to the use of its natural resources have historically prevented the DRC from fully utilizing its resources to generate revenue and improve quality of life for its citizens. Specifically, numerous policy reports have highlighted the role of minerals in financing the armed groups involved in the most recent DRC conflicts. Control over mining areas in the eastern provinces continues to shift between different independent armed groups and units of the Military of the Democratic Republic of the Congo (“FARDC”).

The struggle for control over these resources has exacerbated conflict and created greater difficulty in managing the resources to benefit the public. Despite a recent transition towards peace, conflict and insecurity remain in the eastern provinces of North and South Kivu, Orientale, Maniema, and Katanga. These conflicts are particularly acute in the northeastern provinces of Ituri in Orientale, and North and South Kivu, where local militia and foreign rebel forces continue to terrorize the regions. A prime example of conflict is the Virunga National Park (“Park”) located in northeastern DRC, on the border with Uganda and Rwanda. The Park was the site of some of the large-scale armed conflicts that occurred in the Kivu Provinces. The 1994 Rwandan genocide and resulting refugee crisis led to the presence of about 700,000 refugees on the edges of the Park. These displaced groups increased the consumption of resources both inside and outside the Park, furthering the impact on the environment and leading to mass deforestation. However, conflict exists not only over the natural resources but also over collaboration: site-specific, cross-border collaboration efforts between conservation organizations in Rwanda, DRC, and Uganda have continued during various wars at the regional level. Furthermore, the DRC continues to face significant challenges in its reform processes in all natural resources sectors. The widespread disintegration of government functionality during the prolonged conflicts has left a legacy of bureaucratic inefficiencies in knowledge, expertise, capacity, and resourcing across all sectors. These shortcomings mean that institutions often are unable to respond to the serious problems they face. For instance, in the area of education, only 32% percent of teachers in secondary school and 20% percent of those in higher education are qualified at the level mandated by their posts. Congo’s National Statistical Institute (“INS”) lacks resources to collect the necessary information by which ministries’ performance can be verified.

Even in areas where periodic reporting is mandatory, such as the mining industry, it is still difficult to find reliable data on mining operators, production, or exported commodities (Burnley, 2011). As continuous conflict in eastern DRC kept destabilizing the country and the wider Great Lakes region, on 28 March 2013 the UNSC decided to create, through resolution 2098, a specialized 'Force Intervention Brigade' (FIB), operating under direct command of the MONUSCO Force Commander with the mandate of neutralizing armed groups and reducing their threat to state authority and civilian security (MARCUCCI, 2018)

There is a large variety of publications today about the ways in which the exploitation of mineral resources is a factor in unleashing war. Up until the beginning of the 1998 rebellion, the analyses of war in the Great Lakes region were written in the shadow of the Rwandan genocide and the regional upheavals provoked by regime change in Kigali. In Filip Reyntjens' 1999 book, *La guerre des Grands Lacs* [The Great Lakes War], the economic dimension of the conflict is barely mentioned. Another work completed in the same year, under the direction of Paul Mathieu and Jean-Claude Willame, *Conflits et guerres au Kivu et dans la région des Grands Lacs* [Conflicts and wars in Kivu and the Great Lakes region] concentrated on the land question in Kivu and on the regional aspects of the war. Only one page refers to the 'economic interests of the conflict'.

It was primarily the press and particularly the Belgian newspapers, *Le Soir* and *Libre Belgique*, which exposed the 'pillaging of the Congo by Rwandan and Ugandan soldiers. *Le Soir* reported that Museveni was criticised in Uganda, because of the 'involvement of his half-brother, Salim Saleh, in trafficking in gold and precious wood', and also that 'the donor community was concerned about the resources devoted to the war'. In 1999, *L'Enjeu congolais* [What is at stake in the DRC], by Colette Braeckman, denounced the "war of loot" and described the evolution of events in the DRC from 1996 onwards as 'a new chapter in the hold-up of the Congo that has been going on for over a century', but she did not elaborate on this aspect of the conflict. In *Les Nouveaux Predateurs* [The New Predators], published in 2003, she returned at greater length to this "hold up". The thesis of a war self-financed by the exploitation of the natural resources of the Kivu meanwhile was solidly supported by the work of the UN Group of Experts. This understanding of the conflict coincides with the views of Paul Collier, writing for the World Bank, and is now common knowledge (Alert, 2010)

In most African countries, outdated laws have failed to meet contemporary realities of integrated development, customary and community rights and value systems. There is either legislation without a policy basis or policy without legislative backing. As such, the legislation or policies available fail to address issues of poverty, employment, interests of youths, gender, land use and rights. Where legislation exists, it tends to conflict with other legislation on environment, land planning, urban and rural development, traditional and cultural rights and community value (WEBBER NDORO, 2009). Transparency in governance remains another main challenge to effective natural resources in the DRC. The country now ranks 164th out of 178 in the 2011 Transparency International Corruption Perception Index, while the World Bank/IFC doing business 2011 survey ranks DRC 175th out of 183 countries. A number of authors have highlighted the negative effects of corruption

on the management of natural resources in DRC. For instance, policy processes are prone to disruption by politicians acting in their own, rent-seeking interests. Furthermore, government agents at mine sites illegally tax the operations in eastern DRC, justifying their practice by blaming the lack of monetary support from the central government

Given the continuous proliferation of different armed groups in eastern DRC (most of which do not meet the level of organization required for the application of international humanitarian law of NIACs), determining the parties to the conflict is not straightforward. Around 120 armed groups have been counted in North and South Kivu provinces alone. The following list attempts to identify the most prominent. The end of 2017, marking one year since the signing of the Saint Sylvester Agreement between the government and the opposition, was particularly characterized by protests against the government harshly repressed by the police. Demonstrations in Kinshasa were organized by the Collective of Lay Catholics, while smaller protests taking place in the Kivu were often led by youth groups and civil society. During nationwide protests organized by Catholic Church lay leaders on 31 December 2017, 21 January and 25 February 2018, Congolese security forces fired live bullets and tear gas into Catholic Church grounds. On 25 April 2018, they also brutally repressed a protest led by the citizens' movement *Struggle for Change* (LUCHA) in Benin, arresting 42 people and injuring 4 others. A few days later, 27 activists were arrested during another LUCHA protest in Goma. According to Human Rights Watch, ruling party officials also recruited 100 youths to infiltrate churches, arrest priests attempting to organize marches and generally spread chaos so as to justify any repression (ACADEMY, 2018)

MATERIALS AND METHODS

This study based on primary and secondary data collected through intensively deep interview with the local population and local leader in Eastern province of Democratic Republic of Congo to create a strong understanding of international legislative protection and sustainability development of cultural heritage resources in armed conflicts. With the help of Smart GIS and Google Earth Pro, a high resolution satellite imagery was downloaded to document the location study area.

Study area

Description of Democratic Republic of Congo

The Democratic Republic of Congo (DRC) is a vast country; the land area is 2,267 thousand km² it has a population of some 58 million, with a high population growth (3.2%). Over 30% of the population lives in urban areas (25% only in Kinshasa), while 70% resides in rural areas. The urban annual growth rate is 3.8%. 360 ethnic groups with 219 languages reside in the country. 2 The DRC holds the world's largest deposits of cobalt and tantalum, as well as significant reserves of copper, gold, diamonds, and other minerals (zinc, iron, uranium, etc). DRC harbors large ecosystem diversity and rich biodiversity, consisting of the largest fauna and the second largest flora (after South Africa) on the African continent, and the second largest tropical forest in the world after the Amazon. (Gotthernburg, 2008)



Source: UNHCR

Figure 1. General Map of DRC

Interview

Interview in this research was conducted with both local people and local leader, the information obtained was the impact of armed conflicts on sustainability of cultural heritage resources, the challenges of cultural heritage resources management in Eastern DRC and how to overcome such challenges and harmonize laws.

Questionnaire

Questionnaire a set of printed or written questions with a choice of answers was administered to the residents, devised for the purposes of a survey or statistical study. The questionnaire was the main tool which was used to gather data in this research.

The questionnaire was administered to the heads of households on in their absence any adult representative. The questionnaire included a set of open- ended questions. In this case, the respondents were limited to certain options which they were asked to select the answers.

Sample size and sampling techniques

This study targeted population is 100 people living in Eastern province of DRC and purposive sampling methods was use in this research, the selected number was thought to be adequate to provide sufficient information and also to minimize unnecessary repetition of information. We used the total freedom in selecting of people to be a part of our research and all target people was eligible to be surveyed. The sample size of this study was 72 people got using the formula as it is shown in the following Slovin’s formula:

$$n = \frac{N}{1 + N(e)^2}$$

Where: n: The representative sample, e: sampling error= 8%, N: The main population

$$n = \frac{100}{1 + 100(0.08)^2} = 72 \text{ people}$$

Which is approximately to 72 people?

Data analysis and presentation techniques

Descriptive statistical techniques were used in this research to organize, summarise and present the information obtained from questionnaire depending on how each groups respond. Data obtained was compiled and tabulated into frequencies distribution tables graphs and charts in order to analyse, interpret and present meaningful information.

RESULTS AND DISCUSSION

Profile of Respondents

The respondents who were interrogated were 72, including 40 men and 32 woman. The study administered the research instruments (questionnaires) to the respondents and the response rate is indicated by the table below:

Table 1. Response rate

Instrument	Distributed	Returned			
		Response Frequency	%	No response Frequency	%
Questionnaire	72	72	100	0	0

The table 1 shows that the 72 questionnaires were distributed to the respondents and 72 questionnaires, which represent 100% of the population sampled, were answered. However, this indicates that the research was successful at 100% with good responses and quite representative.

The impact of armed conflicts on sustainability of cultural heritage resources

There is a large body of quantitative research on the external factors relevant for understanding civil conflicts at the local, national, and international level. Examples of these external factors include resources type and the characteristics of the state. These studies have focused on the access to and use of cultural heritage resources by conflict parties, especially the role of conflict financing through the exploitation of natural resources. Valuable cultural heritage resources like diamonds, gold, oil, timber, and even drug crops and medicinal plants, have been found to be prone to misappropriation. The control of these resources may allow rebels to generate conflict financing.

These research can nonetheless be useful in understanding how conflict makes the management of cultural heritage resources more difficult and vice versa. Another issue focused on the environmental scarcity and competition between groups for these natural resources. Increasing demand from growing populations and inequalities in the distribution of natural resources can ultimately lead to environmental degradation. Event of armed conflict with the aim of providing protection to

them from the increasing danger of the destruction of them, which is a consequence of the developments of warfare under the idea, expressed in the Preamble, ‘that damage to cultural property belonging to any people whatsoever means damage to the cultural heritage of all mankind, since each people makes its contribution to the culture of the world.

Another issue may be placed under special protection a limited number of refugees intended to shelter movable cultural property in the event of armed conflict, of centers containing monuments and other immovable cultural property of very great importance. This protection is restricted to assets that fulfill a series of requirements such as being of a great importance, to be at a certain distance of military objectives, the non-use in military purposes and the inscription in the International Register of Cultural Property under Special Protection.

Table 2. Table showing the impacts of armed conflicts

Impacts of armed conflicts	(%)
Environmental scarcity	30%
Competition between groups for these cultural heritage resources	40%
Increasing demand from growing populations	15%
Inequalities in the distribution of natural resources	15%

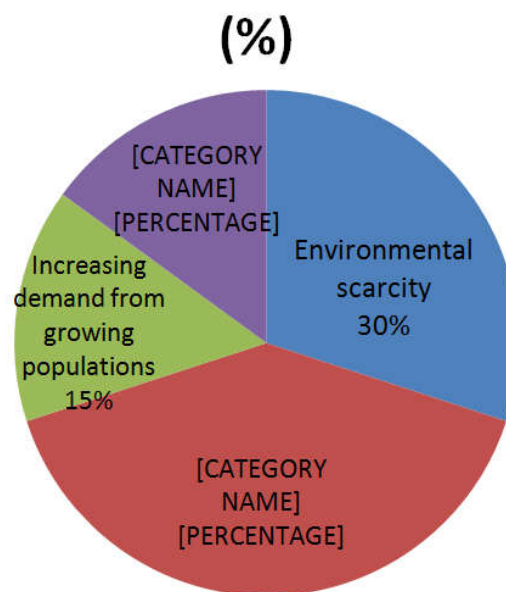


Figure 2. Showing the impact of armed conflicts

International legislative protection and sustainability development of cultural resources in Eastern province of DRC

This study revealed various Best practices done to Post-Conflict Cultural Resources Management in the Eastern province of DRC. Such practices include devolving rights to local communities, diversifying economic activities around protected areas, improving land use planning and zoning, securing tenure to land and resources, ensuring stakeholder participation in resource management, integrating policies relating to cultural resources, and legitimizing community-based management initiatives. Given the success of these tactics, many national programs in the DRC are beginning to embrace these concepts. Accordingly, donors and the government of the DRC are working together to build institutional and individual capacities for participatory management of natural resources in various sectors. In the

cultural resources related to forestry sector, the International Development Association and the Global Environment Facility are supporting the Forest and Nature Conservation Project to provide infrastructure, equipment, training, and project coordination at the national level for the MECNT, regional, and provincial management bodies. Implementing best practices will strengthen MECNT's institutional capacity to as well as community participation in sustainable forest management. Striving for similar goals, WWF and United Nations Human Settlements Program ("UN-HABITAT") are collaborating to manage conflicts linked to land tenure bordering protected areas in eastern DRC, combining participatory demarcation with conflict mediation and land administration. To facilitate best practices, it is important to recognize that the external economic environment, such as levels of direct foreign investment and variability in price of commodities, is largely outside the control of the Congolese. However, Congolese policymakers and administrators can nonetheless control how revenues and investments are managed. Improvements to the institutional governance systems for resource revenues have focused on increasing efficiency in three dimensions: management, allocation of revenue, and distribution of benefits.

International efforts have focused on supporting transparency in revenue management and restricting the financing of armed groups. The Extractive Industries Transparency Initiative ("EITI") tries to increase transparency surrounding resources exploitation, revenue generation, and budget allocations. The DRC has been classified by the EITI as "close to compliant." Transparency initiative objectives support the disclosure of information for the extractive industry and civil stakeholders' demands for accountability from policymakers and institutions. However, it will take time for capacity building to redress the current imbalance between levels of influence by state and civil society actors. At the moment, capacity and knowledge gaps on the part of civil society mean that it is difficult for civil stakeholders to hold institutions and political actors accountable for their actions.

Table 3. Showing practices to sustainable development of cultural heritage resources

Practices to sustainable development of cultural heritage resources	% to put in practice
Devolving rights to local communities	14%
Diversifying economic activities around protected areas	6%
Improving land use planning and zoning	10%
Securing tenure to land and resources	12%
Ensuring stakeholder participation in resource management	14%
Integrating policies relating to cultural resources	38%
Legitimizing community-based management initiatives.	6%

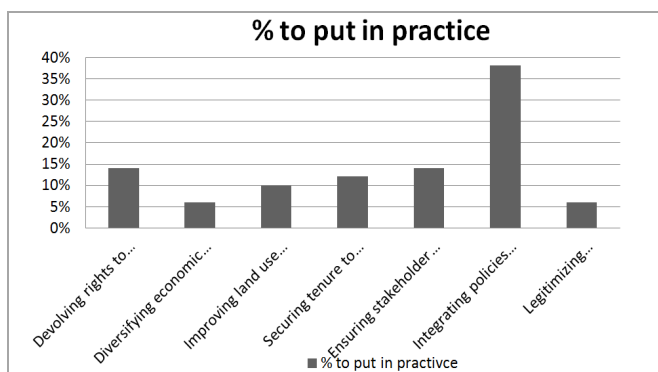


Figure 3. Showing percentages of various practices

The challenges of cultural heritage resources management in Eastern DRC

The twin challenges of governance for the DRC are to provide security for all of its citizens and to build democratic, transparent, and accountable institutions capable of managing its enormous resource wealth for the benefit of its entire population. Although the existing legal framework recognizes the right to use land via customary law, it also allows for land grabbing, the purchase of occupied land, and the eviction of tenants. And since the government retains the right to define "Congolese people," the issue of who is entitled to land rights is highly politicized. Further tensions stem from the unclear role of formal and customary authorities. Thus legal reform is necessary to prevent future land-grabbing opportunities that could cause armed conflict. Legitimizing certain existing formal and customary systems of land administration, and providing a forum for land use disputes, could help diffuse both future conflicts and lay a framework for sustainable land management. The demarcation of conservation areas in the DRC is also a contentious political issue. The existence of conservation areas has been linked to colonial land demarcations, which are not always understood or accepted by the communities affected. In response, managers of these protected areas have engaged in participatory management methods involving local communities, such as consultations, participatory demarcation, and the creation of alternative livelihood activities. However, conflict exists not only over the natural resources but also over collaboration: site-specific, cross-border collaboration efforts between conservation organizations in Rwanda, DRC, and Uganda have continued during various wars at the regional level. Furthermore, the DRC continues to face significant challenges in its reform processes in all natural resources sectors. The widespread disintegration of government functionality during the prolonged conflicts has left a legacy of bureaucratic inefficiencies in knowledge, expertise, capacity, and resourcing across all sectors. These shortcomings mean that institutions often are unable to respond to the serious problems they face. For instance, in the area of education, only thirty-two percent of teachers in secondary school and twenty percent of those in higher education are qualified at the level mandated by their posts. Congo's National Statistical Institute ("INS") lacks resources to collect the necessary information by which ministries' performance can be verified. Even in areas where periodic reporting is mandatory, such as the mining industry, it is still difficult to find reliable data on mining operators, production, or exported commodities.



In the past decade more than 200 park guards have been killed in eastern DRC, equivalent to around 10 percent of the national ranger force

Figure 4. Park guards that have been killed and become a challenge to the management of cultural heritage in Eastern DRC

Conclusion

From the findings and the corresponding discussions, the research concludes that The theories of environmental scarcity and of cultural heritage resources wealth as conflict causes in the DRC are well documented. What remains unclear, however, is why large-scale armed violence persists in some eastern provinces of the country, while other, equally resource rich provinces, such as Katanga and the hinterlands of the Kivu Provinces, and escape such violence. This suggests that additional tensions, such as those between government and those linked to local socioeconomic factors are of the utmost relevance.

Recommendation

The study gives the following recommendations as a result of the major findings and discussions:

The political, economic, and social contexts in which natural resources are used and the manner in which resources are managed is paramount to prevent and manage conflicts at all levels. Governance objectives are often broadly formulated to strengthen institutions, build institutional and human capacity, and improve rule of law. Successful governance, however, requires specific measures and binding timeframes for implementation in order to reform key areas such as the accurate monitoring and legal enforcement of natural resources management strategies.

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