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Forced Labour in Armed Conflicts: Special Case of the Democratic Republic of Congo

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Summary

International human rights bodies that monitor and report human violations across the world like Human Rights Watch, Amnesty International, among others have found that forced labour is being exacted in the armed conflict that has been raging for many years now in the DRC. Armed groups have systematically abducted civilians in the DRC for purposes of forced labour and sexual slavery as part of the armed conflict in the region.

The majority of these abductions that result in forced labour are in the northeastern region of the DRC, which is a hotspot of the conflict, and the victims are predominantly women and children, with a substantial minority of men. The women who are abducted are subjected to rape and sexual slavery. In some instances, they are forced to carry out other services such as cooking, transporting looted items, and collecting firewood and water. Abducted men on the other hand are forcefully conscripted as soldiers and are subjected to forced labour such as transporting looted goods, working in mines, and in some cases, they are sexually assaulted.

The government of the DRC has failed in its duty under international law to protect its citizens from abductions and conscription into forced labour conditions. In fact, human rights organizations have reported that the government is responsible for some of the violations. This is the case because government and government-supported forces allegedly carry out violations against the civilians they are supposed to protect. As if this is not enough, the perpetrators of violations are known and in most cases have gone unpunished. There has been a system of impunity in the DRC. However, some warlords suspected of human rights violations in the DRC have been taken to court for their involvement in the conflict.¹ Human

¹ According to a Human Rights Watch report, November 26, 2009, two war lords, Germain Katanga and Mathieu Ngudjolo were tried at the International Criminal Court (ICC) on November 24, 2009, for war crimes and crimes against humanity committed in Congo’s Northeast Ituri district. The charges include rape, murder, sexual slavery and the use of
Rights Watch reported that justice is coming slowly to the DRC. Despite this milestone, other notorious suspects in the DRC remain at large. A suspect of interest who is still at large as of today is Bosco Ntaganda.2

The conflict in the DRC has been going on since 1996 and the pattern of human rights violations including abductions that result in forced labour have been the same. All these years, impunity has been a recurring characteristic. Another worrying situation about the conflict is the fact that the pattern of violations are not only limited to the DRC. Other conflicts in Africa such as the conflict in Darfur, Sudan have the same pattern of violation, including abduction, sexual slavery, rape, recruitment of child soldiers.

This thesis makes a comparative study between the armed conflict in the DRC and the conflict in Sudan. It concludes that the government of the DRC and other stakeholders in the conflict have an obligation to protect civilians in the region from forced labour and other human rights violations. It calls for the government of the DRC to work closely with the ILO to investigate forced labour and take all the necessary measures to meet the obligations under the ILO forced labour standards and other human rights standards it has ratified. It calls for the government of the DRC to work with the International Criminal Court (ICC) to bring those suspected of war crimes and crimes against humanity in the DRC.

The United Nations mission in the Congo (MONUC) should be fully deployed, with all the resources they need to bring the peace to the region. MONUC’s mandate should be extended to include the use of force to protect civilians. The current mandate has failed despite the fact that the DRC presently has the largest UN peacekeeping mission.

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2 Human Rights watch called for Congolese cooperation with the International Criminal Court (ICC) to include his arrest. Web link: http://www.hrw.org/node/80325
Dedication

This thesis is dedicated to my Law mentors - Nsen Abeng and Kum Godlove Wallang. They inspired me to seek progress through justice.
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If the Lord does not build the house, the work of the builders is useless (Psalm 127:1). I thank God for giving me the strength to write. This thesis would not have been possible without his blessings.

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<td>ACHPR</td>
<td>African Charter on Human and Peoples Rights</td>
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<td>ADFL</td>
<td>Alliance of Democratic Forces for the Liberation of Congo</td>
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<td>DRC</td>
<td>Democratic Republic of Congo</td>
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<td>ECHR</td>
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| FARDC    | Armed Forces of the Democratic Republic of Congo  
(Forces Armées de la République Démocratique du Congo) |
| HIV      | Human Immunodeficiency Virus |
| ICC      | International Criminal Court |
| ICCPR    | International Covenant on Civil and Political Rights |
| ILO      | International Labour Organization |
| MLC      | Le Mouvement pour la Liberation du Congo  
(Movement for the Liberation of Congo) |
| MONUC    | United Nations Mission in Congo |
| NGO      | Non-Governmental Organization |
| PTSD     | Post-Traumatic Stress Disorder |
| RCD      | Rassemblement Congolais pour la Democratie |
| UN       | United Nations Organisation |
| UNHCR    | United Nations High Commissioner for Refugees |
| UNSC     | United Nations Security Council |
| UDHR     | Universal Declaration of Human Rights |
| USSR     | Union of Soviet Socialist Republics |
| UK       | United Kingdom |
1. Introduction

The description of the armed conflict in the Democratic Republic of Congo (DRC) by some as “Africa’s First World War” has led to increased public awareness of the devastating conflict raging across the DRC. The conflict is claiming millions of lives along side the outrageous human rights violations in the region. The recruitment of children to serve as soldiers has drawn media attention to the conflict in the DRC and increased public awareness of forced labour in the region exacted by actors in the conflict mostly against civilians. Human Rights Watch and other human rights agencies have made shocking revelations of the human rights abuses and the forceful conscription of civilians to work against their will in the DRC. The sector most talk-about by the press and scholars is the conscription of children to serve as soldiers in the conflict. This has gained the world’s attention, but abuses have been found that do not involve children but equally qualify as forced labour under international human rights law and international labour standards. It is worthy to note that abuses that do not involve children have not had a fair share of international attention.

The government of the DRC is party to many international human rights Conventions including the ILO’s Forced Labour Convention (Convention No. 29) of 1930 and the Abolition of Forced Labour Convention (Convention No. 105) of 1957. Consequently, the state has the obligation to eradicate all forms of forced labour in its territory. The ILO on its part is promoting a Global Alliance to eradicate forced labour. To achieve this, the ILO is expected to monitor the situation in the DRC and where necessary provide expertise for the elimination of forced labour in the region.

The situation in the DRC, as with most conflicts in Africa has a lot to do with the legacy of colonialism. Millions of people have been killed in the DRC since the Belgians imposed colonial rule. The murders in the region have been graphic, with chopped limbs; similar to what has been seen in
recent years in other parts of Africa like Sierra Leone, Liberia, Sudan and other hotspots. During the colonial era, the Belgian used forced labour to exploit the mineral resources in the DRC. Nationals of the DRC were forced to work in the plantations and minefields, each of the required to supply a particular quota of raw materials. This pattern of forced labour is inextricably linked to the wide use of force labour in the conflict in the DRC today. This is the case because forced labour in the colonial era went unpunished.3

The abduction of civilians by government, rebel and government-supported armed forces in the DRC reveal deep-seated impunity in the violation of international labour law by the government of the DRC. According to eyewitnesses and local human rights monitors, civilians in the DRC do not feel secured. This is the case because “Congolese government soldiers were sent to Ituri to protect civilians against abuses by local militias, but they themselves are devastating the area”4. Congolese army spokespersons accuse the local militia groups for abducting these civilians. However, eyewitnesses and local human rights monitors who allege that government soldiers carry out the abductions counter this claim.

Violation of international law is not only in the abductions but also in the failure of the authorities of the Democratic Republic of Congo to investigate and prosecute those accused of committing these crimes. Consequently, civilians in the war-torn DRC live in constant fear and are deprived of their freedom as Congolese citizens.

It is worth mentioning that Eastern Congo has been engaged in an armed conflict since 1996 when the Alliance of Democratic Forces for the Liberation of Congo (ADFL) led by Laurent Kabila, supported by ethnic “Banya-mulenge” Tutsis and Rwandan troops launched their campaign to

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4 Alison Des Forges, Senior Africa Adviser at Human Rights Watch
oust Mobutu Sese Seko\textsuperscript{5}. Mobutu was successful ousted and Kabila seized power. However, in 1998 conflict began again. There was a rebellion against the Kabila regime led by Rassemblement Congolais pour la Democratie (RCD). A year later, there were over 8 armies and at least 12 other armed groups active in the DRC. The presence of Tutsi troops in the DRC was opposed by the Mai-Mai. Rebel troops were backed by armed forces from Rwanda and Uganda and Zimbabwe troops were backing Kabila. In August 1999, a cease-fire agreement was signed between the states and rebel groups. However, the cease-fire was violated repeatedly. The commitment of the parties to negotiate was put into question and the United Nations had to intervene. It remains to be seen whether the deployment of UN peacekeeping forces and military observers will bring the armed conflict in the DRC to an end.

This thesis brings to the lime light the prevalence of forced labour in the armed conflict in the DRC\textsuperscript{6}, where government and rebel forces abduct civilians (including women and children) and force them to work in local goldmines, to harvest and collect food, transport goods or serve as soldiers. It goes further to analyse the International Labour Organisation’s (ILO) effort to end forced labour in the DRC and makes a comparison of the forced labour in the conflict in the DRC and the situation of forced labor in the Republic of Sudan. The victims of forced labour in the DRC include children, women and men of all ages. According to Human Rights Watch, these abductions, forced labour and other atrocities are predominant in the northeastern Ituri district. The bone of contention is whether abduction of civilians by armed groups, the incorporation of civilians into the armed forces together with other atrocities in the conflict in the DRC constitute a

\textsuperscript{5} Heading Towards Extinction? Indigenous Rights in Africa: The Case of the Twa of the Kahuzi-Biega National Park, Democratic Republic of Congo, 2000, p. 13

\textsuperscript{6} The country was established by King Leopold of Belgium in 1885 as the Congo Free State. Since then, it has undergone several name changes. During the colonial period which ended in 1960, the country was known as Belgian Congo. After independence, the country was renamed Zaire by its President Mobute Sese Seko. Following his overthrow in 1997, the country was renamed Democratic Republic of Congo. For simplicity, this thesis used the abbreviation “DRC”.

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violation of international labour standards by the government of the DRC and if it is a violation, has the ILO done enough to remedy the situation.
2. Understanding forced labour in armed conflicts

Forced labour remains a threat to many countries today and has the potential to damage societies be it in Africa, Europe, the Middle East or the Americas. The concept of forced labour remains a widely misconstrued concept. Many people mistakenly associate and limit forced labour to slavery and forced labour practices of dictatorial regimes. This misconception has far-reaching consequences. Forced labour practices go unreported because people do not understand the ingredients for forced labour. It is therefore primordial to define the concept of forced labour and throw more light on what constitutes forced labour.

2.1 Forced labour: Definitions and concepts

“Forced labour is the antithesis of decent work,” said ILO Director General Juan Somavia. “It causes untold human suffering and steals from its victims. Modern forced labour can be eradicated, provided there is a sustained commitment by the international community, working together with government, employers, workers, and civil society.”\(^7\) It is worth mentioning that the concept of forced labour as set out the International Labour Organisation standards is yet to be well understood despite the realisation that forced labour can reduce productivity in society rather than increase it. No doubt, this is the case because the Abolition of Forced Labour Convention (No.105), 1957 specifies that forced labour can never be used for economic development purposes.\(^8\) Forced labour today is still continuously being associated with the forced labour practices of dictatorial regimes such as the regimes of the former USSR and Hitler’s Germany. The concept of forced labour is widely misunderstood, but it should not be

\(^8\) Article 1(b), Abolition of Forced Labour Convention, 1957
limited to poor working conditions, low wages, late payment of wages or even payment of wages below the minimum wage.9

2.1.1. Characteristics of Forced Labour

For the purposes of international law, forced labour is defined by the International Labour Organisation in the Forced Labour Convention, 1930 (No. 29). This Convention, it is worth mentioning, was the first-of-its-kind on the subject of forced labour. The Convention (No.29) concerning forced labour defines forced labour as “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily”.10 Forced labour represents a severe violation of human rights and a restriction of human freedom.

The definition of forced labour comprises two elements. Firstly there is the element of menace of penalty and secondly, element of the work or service being involuntary. The ILO has worked over the years to clarify these aspects of forced labour. According to the ILO supervisory bodies, the penalty in question does not need to be a penal sanction. The penalty can take the form of a loss of rights and privileges. The element of menace in its most extreme form involves physical violence or death threats addressed to the victim directly or indirectly (for instance, to relatives). Over the past 75 years, the ILO has dealt with situations that include threats to denounce victims to the police or immigration authorities when the victims’ immigration status is illegal.11 In the case of armed conflicts, the story is different. Military forces or rebels hold victims at gunpoint and threaten to kill them if they disobey.12

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9 The Cost of Coercion (Global Report under the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work), 2009, p. 5
10 Article 2(1), Forced Labour Convention, 1930.
11 A Global Alliance against Forced Labour (Global Report under the Follow-up to the ILO Declaration on Fundamental Principles and Rights at work), 2005, p. 5
12 Human Rights Watch, Brussels, October 16, 2006
With regard to the second element of forced labour – the element of choice, the ILO has identified the fact that there can be many subtle forms of coercion. The ILO supervisory bodies recognise the fact that many victims of forced labour enter forced labour situations voluntarily only to later discover that they are not free to revoke their consent. Consent is a very important ingredient of forced labour. The burden of proof therefore is on the accused in a case of forced labour to show that the victim of the alleged forced labour exacted the work or service voluntarily. In a situation where it is evident that a victim consented to work or provide a service, forced labour would be hard to prove. Initial consent may however be considered irrelevant when deception or fraud has been used to obtain it. A forced labour situation is not determined by the illegality or legality of the work or service provided. Rather, it is determined by the relationship between a person and an employer. To illustrate, a man forced to work as a human mine detector is in a forced labour situation not because of the illegality of the work he is forced to do but because of the involuntary nature of the work and the menace under which he is working. It is evident therefore that the lack of consent to work and the menace of a penalty constitute the two main characteristic of forced labour. These are the two main aspects that could be used to identify forced labour in practice.

2.1.2. Patterns and Characteristics of armed conflicts

Obviously, the question at this point is what is an armed conflict? Answering this question is particularly important if we hope to understand why attention ought to be paid to the kind of forced labour exacted in the DRC. A conventional model of armed conflict is a conflict between two sides equipped with weapons or arms and having opposing aims. These aims are typically political aims. It follows that the aim of an armed conflict could be to topple the government (for instance, in the case of the DRC). In 1995, 30 major armed conflicts raged in different locations around

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the globe. In 2008, 18 significant armed conflicts raged around the world, stretching from the Middle East, to Asia, to Africa, to Europe and Latin America. These armed conflicts erupted between states, between factions split either along religious or cultural lines or between factions split along ethnic lines. During these armed conflicts, nothing is spared. Everything is destroyed including schools, roads, bridges, churches, including children, women, families, communities, animals. For instance, millions of civilians were caught up in the 1995 conflicts either as victims to a general onslaught against civilians or as part of a calculated genocide. This shows that non-combatants are always victims of armed conflicts. Armed conflicts commonly rage between government and rebel forces, between different opposition groups, and among populations at large. The basic causes of most armed conflicts centre on persistent economic, social and political crisis all of which more often than not contribute immensely to the disintegration of public order. Armed conflicts usually drag on for long periods with no clear beginning or end. The conflict in the DRC for instance, erupted as far back as 1996 and has been raging ever since then subjecting successive generations to endless struggles for survival. As these armed conflicts rage on, civilians are caught-up in the crossfire and many become victims of human rights abuses. For instance, woman and girls are raped; children are deprived of the right to health, the right to be nurtured and protected, the right to development of personality, the right to be with family and community. As if this is not enough, children are recruited to serve as soldiers (a situation that constitutes a worst form of child labour), men are killed and others are abducted, forced to work or provide services for armed groups. There are even reports of increasing numbers of men being sexually violated as well. Such outrageous consequences of armed conflicts are commonly not highlighted. Many are left with little or no idea about the complex issues behind armed conflicts. The media more often

16 Report of the expert of the Secretary General, Grac’a Machel, submitted pursuant to General Assembly Resolution 48/157
17 Article 3(a), Worst Form of Child Labor Convention (No. 182), 1999
than not covers one side of the story. James Fallows argued that the United States media covers American politics as if it were covering sports with questions such as who is going to win. Who is ahead of the polls? What are the tactics? Other questions like “what are the policy issues?” are easy to neglect. The coverage of armed conflicts usually takes the form of sport coverage leaving the audience with little idea of the complex issues behind the conflict such as abductions and forced labour. The absence of these equally important issues in the media coverage of armed conflicts has far-reaching consequences. Light is not shed on certain human rights violations and the victims remain enslaved because their situation is not known by the public.

2.1.3 Forced Labour in Legislation

Freedom from forced labour, servitude, or slavery must hold a central place in any human rights conception. Many international human rights standards require that neither slavery nor forced or compulsory labour shall exist in the world. The crimes committed in the armed conflict in the DRC include forced labour, torture and inhuman treatment of people. People are also held in slavery, servitude and forced to work. These crimes constitute violations of the DRC’s obligations under international human rights law. These obligations are laid down in the forced labour standards of the ILO (Forced Labour Convention, 1930 and the Abolition of Forced Labour Convention, 1957) as well as the International Covenant on Civil and Political Rights (ICCPR), which Congo ratified in 1976, the African Charter on Human and Peoples’ Rights (ACHPR), which the DRC ratified in 1987, and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which Congo ratified in 1996.

The Universal Declaration of Human Rights (UDHR) of 1948 provides that no one shall be held in slavery or in servitude; that slavery and the slave

trade shall be prohibited in all forms and that everyone has the right to free choice of employment. Human rights treaties negotiated and agreed by United Nations (UN) Member States prohibit forced labour as well. The European Convention on Human Rights (ECHR), 1950 provides that no one shall be required to perform forced or compulsory labour.

Nowadays, there exist a clear relationship between human trafficking and forced labour. No doubt, this is the case because studies have shown that victims of human trafficking more often than not end up being forced to work or provide services for traffickers. Consequently, states have started to pay more attention to forced labour. States now tend to include forced labour in their criminal or other legislation. The rising global concern with trafficking in persons culminated in the drafting and coming into force of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime. According to this protocol, “trafficking in persons” refers to the recruitment, transportation, transfer, harbouring or receipt of persons “for the purpose of exploitation.” In the same article, the Protocol went further to explain “exploitation” which includes forced labour. By implication therefore, trafficking includes, but is not limited to forced labour. The Trafficking Protocol of 2000 obliges state parties to criminalize trafficking. This goes a long way to require State parties to the Protocol to criminalize forced labour.

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20 Article 4.
21 Article 23(1).
22 International Covenant on Civil and Political Rights (Article 8); International Covenant on Economic, Social and Cultural Rights; Convention to Eliminate Discrimination against Women; Convention to Eliminate Racial Discrimination, Convention against Torture; Convention on the Rights of the Child. The DRC is a party to all the conventions.
23 Article 4(2).
It is worth noting that the ILO champions the fight against forced labour in the globe and has drafted two international Conventions to deal with the subject. These conventions include the Forced Labour Convention (No. 29 of 1930)\textsuperscript{27} and the Abolition of Forced Labour Convention (No. 105 of 1957)\textsuperscript{28}. In addition to being supervised by the ILO’s supervisory bodies, the ILO has from time to time convened special examination of these standards by two authoritative international committees, namely: the United Nations-International Labour organisation Joint Ad Hoc Committee on Forced Labour, which met from 1951 to 1953,\textsuperscript{29} and the ILO Committee on Forced Labour.\textsuperscript{30}

The adoption of the Slavery Convention during the Assembly of the League of Nations on September 1926 led to a request of the Assembly of the League of Nations to the ILO to pursue the question of the forced labour in a detail. The parties to the Slavery Convention recognised that compulsory or forced labour may have grave consequences and thus sought to prevent forced or compulsory labour from developing into conditions similar to slavery.

Following the request from the Assembly of the League of Nations, the first fruits of the work of the ILO in the domain of forced labour was the adoption of the Forced Labour Convention in 1930. The 1930 Convention has now been signed and ratified by a vast majority of ILO member states including Britain, France, Germany, India, Italy, Japan and the Former USSR; together with every major state in the world with the exception of China, Canada, and the United States have signed and ratified the ILO

\textsuperscript{27} Ratified by 174 ILO Member States as of 13 November 2009, thus enjoying almost universal acceptance. The DRC ratified on 20 September 1960. Web link: http://www.ilo.org/ilolex/english/newratframeE.htm
\textsuperscript{28} Ratified by 169 ILO Member States and denounced by 2 States as of 13 Nov. 09. The DRC ratified on 20 June 2001. Web Link: http://www.ilo.org/ilolex/english/newratframeE.htm
\textsuperscript{29} United Nations and International Labour Office, Report of the Ad Hoc Committee on Forced Labour (1953).
Forced Labour Convention. However, many have not criminalized forced labour in their domestic law by adopting legislation or other measures to establish forced labour as a criminal offence at the national stage. The criminalization of forced labour in domestic law would go a long way to combat forced labour more effectively. The understanding of the concept of forced labour, when criminalized nationally will not only be limited to state-sanctioned forced labour. Forced labour also exists in the private sector and the terms of the Forced Labour Convention, 1930 as regards forced or compulsory labour for private purposes are unequivocal. Forced labour is not to be imposed or permitted for the benefit of private individuals or companies. Private individuals exacting forced labour can only be effectively brought to justice through the criminalization of forced labour in national law. The absence of forced labour as an offence in national legislation could be misleading. It may reflect a situation in which forced labour is equated to a practice imposed by the state, rather than address situations where private individuals in the private sector exact most forced labour.

There exist other supplementary conventions adopted by the ILO, which have been widely ratified, and recommendations designed to regulate practices, which may degenerate into forced labour. Some of these supplementary conventions include the Employment Policy Convention, 1964 (No. 122), the Recruiting of Indigenous Workers Convention, 1936 (No. 50), Contracts of Employment (Indigenous Workers) Convention, 1939 (No. 64), Penal Sanctions (Indigenous Workers) Convention (No. 65), 1939, Contracts of Employment (Indigenous Workers) Convention (No. 86), 1947, and a number of recommendations such as the ILO Employment Relationship Recommendation, 2006 (No.198).

31 Convention No. 122 requires States to pursue an active policy to promote full, productive and “freely chosen employment”.
32 Convention No. 198 notes that situations exist where contractual agreements can deprive workers of protection provided by international labour standards.
The fundamental conventions of the ILO, which include the Forced Labour Convention, 1930 (No. 29) and the Abolition of Forced Labour Convention, 1957 (No. 105) were reaffirmed in 1998 and given universal application through the ILO Declaration on Fundamental Principles and Rights at Work.\textsuperscript{33} This declaration requires all ILO Members states to respect and promote principles such as the elimination of all forms of forced labour, the abolition of child labour, among others. This is applicable to member States, whether they have ratified the specific forced labour conventions or not.\textsuperscript{34}

In the DRC, forced labour is exacted by security forces against women, children and adults with disregard to international standards. International law requires that slavery, forced or compulsory labour should be completely eradicated from the world. Governments have a duty to investigate and prosecute serious violations of physical integrity under international law. The UN Human Rights Committee, which monitors state parties to the ICCPR to ensure compliance, have stated that governments do not only have the duty to protect their citizens from violations but also to investigate violations when they occur and bring the violators to justice.\textsuperscript{35} According to the Human Rights Committee, when investigations uncover violations states ought to bring the perpetrators of the alleged violations to justice. International law also requires states to provide reparations for serious human right violations. States are expected to restore the rights violated and provide compensation for damages.\textsuperscript{36}

\textsuperscript{34}Bridget Anderson and Ben Rogaly, "Forced Labour and Migration to the UK", P. 16
\textsuperscript{36}According to the Human Rights Committee, the ICCPR, “requires that States Parties make reparation to individuals whose Covenant rights have been violated. Without reparation to individuals whose Covenant rights have been violated, the obligation to provide an effective remedy, which is central to the efficacy of (enforcing the ICCPR) is not discharged…. The Covenant generally entails appropriate compensation.” Human Rights Committee, General Comment 31, para. 16. Compensation covers material losses, such as medical expenses and loss of earnings, as well as economically assessable moral damage, such as pain and suffering.
Another relevant aspect of law applicable in the armed conflict in the DRC is international humanitarian law. It is worthy to note that applicable international humanitarian law is binding to all parties of the conflict – government and rebel forces. The relevant international humanitarian law includes article 3, which is common to the four Geneva Conventions of 1949 and customary law applicable to non-international armed conflicts. These laws prohibit violations, all of which are ongoing in the DRC. Such violations include summary executions, torture and attacks that deliberately target civilians or do not discriminate between civilians and combatants.

Congo is party to the Rome Statute of the International Criminal Court, which has jurisdiction for “the most serious crimes of concern to the international community as a whole.”

The DRC has ratified international labour conventions that require State parties to promote the elimination of forced labour in their territories. These conventions include Convention No. 29 and Convention No. 105. Despite the obligations imposed on the government of the DRC by these conventions, abductions and forced labour practices remain characteristic of the armed conflict in the DRC, which has claimed the lives of millions of civilians and exhausted donors and aid workers, while the world watches.

2.1.4 Evolution of Forced Labour: Old and new patterns of Forced Labour

The obvious question here is whether forced labour is evolving and whether the victims (individuals or groups of individuals) of forced labour today are different from victims in the past. Forced labour dates as far back as the era of slave trade and slavery. Slavery and slave trade constitutes a form of

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37 Human Rights Report entitled “We Will Crush You” The Restriction of Political Space in the Democratic Republic of Congo. p. 89.
38 The DRC has not ratified the Geneva Conventions. However, the ratification of this convention by the DRC would be crucial for the elimination of the outrageous human rights violations that are going on in the DRC. Countries that have ratified the Geneva Conventions can be found here at the following web link: http://www.cicr.org/ihl.nsf/WebSign?ReadForm&id=375&ps=P
trafficking today and victims of trafficking, as earlier mentioned are often subjected to forced or compulsory labour. According to ILO reports, women and children constitute the most vulnerable groups to human trafficking and to forced labour consequences of trafficking. However, men are also victims of forced labour although a lot of emphasis has not been paid to this group. Men are usually victims of forced labour particularly in armed conflict situations. In armed conflicts, men are conscripted by force to serve in the military, work in gold mines or serve as porters for the military. Men also tend to make up a good number of migrant workers and migrant workers are more often than not subjected to some kind of forced or compulsory labour in the receiving country. It is worth noting that conscription is an exception to forced or compulsory labour.\textsuperscript{39} Conscription is allowed if implemented by the State. However, this exception does not apply to armed non-state actors or non-governmental groups.

It is worth mentioning that older forms of forced labour still exist today as in the case of bonded labour in Asia. Bonded labour is an old form of forced labour but is still predominant today in Asia. However, the difference today is that bonded labour is affecting newer industries and sectors and different population groups are involved. Older forms of forced labour usually result from long-standing patterns of discrimination against particular groups. Traditional forms of forced labour exist in parts of Africa, which have a history of slavery and slave trade.

With the advent of globalization, there has been evolution in many concepts and the concept of forced labour has not been left out. Globalization has seen increased migration. People are migrating nowadays more than ever. Many individuals or groups of individuals are in search for financial profit. They therefore exploit peoples’ quest for better life to their advantage. People seek a better life by migrating from areas scourged by poverty. This has led to the emergence of groups involved in organized crimes. These groups traffic people across borders for profit and the victims end up in

\textsuperscript{39} Article 2, Forced Labour Convention (C29), 1930.
debt-bondage or work for their traffickers or “masters”. This “modern day slavery” has forced labour as one of its outcomes. In industrialized countries, cases of migrant workers on debt bondage have been documented. Debt bondage exists in many sectors of the economy in industrialized countries including but no limited to food processing, construction, and entertainment. A notorious example, according to ILO reports is the trafficking of children for forced begging, drug dealing or sexual exploitation. This is predominant in transition economies of eastern and south Eastern Europe with victims from Transcaucusus and central Asia.

New forced labour situations are characterised- together or individually- by restrictions on freedom of movement, removal of identity documents, threats of denouncing to immigration authorities, threats or actual physical harm to the victim, withholding of wages or excessive wage reductions that violate previously made agreements.40

In situations of armed conflicts, one can detect more updated features of forced labour. These include conscription into armed forces, abduction of children, adults and women to work for armed groups or to provide one kind of service or another. Most commonly, there exists in armed conflicts the abduction of women by armed groups to serve as “comfort women”, 41 children as child soldiers or human shields and adults (males) as porters, soldiers or mine workers. This form of forced labour today is evident in the Democratic Republic of Congo, Myanmar, Sudan and other areas in the globe, which are plagued by armed conflicts. This thesis will throw more light on the kind of forced labour that exists in the Democratic Republic of Congo, a country in which an armed conflict is raging until date.

41 Meaning that they are interned and have to be available for sexual desires of the armed forces. The concept of so called “comfort women” first emerged during Japan’s war in Eastern and Southeastern Asia. This sexual slavery results in millions of rapes. Amnesty International, Canada, has reported the concept of “comfort women” in armed conflicts. Web link: http://www.amnesty.ca/campaigns/svaw_armed_conflict.php
2.2 Estimate of Forced Labour in the world

The ILO has been able to come up with figures that show the number of people who are victims of forced labour in the world. The ILO in its global report in 2005 documented that there exist at least 12.3 million people who are victims of forced labour in the world today. The highest number of victims was reported in Asia (9.4 million), followed by Latin America and the Caribbean (1.3 million), and at least 360,000 in industrialized countries. Among all the victims of forced labour in the globe, 56 percent are women and girls. The latest ILO Global Report on forced labour does not provide a global estimate of forced labour. Looking at the situation today, forced labour still exists despite the fact that many countries have passed legislation that criminalize forced labour. The ILO has been instrumental in providing guidance for legislators on the implementation of the forced labour conventions into national law. According to the ILO, out of the 12.3 million victims of forced labour worldwide, private agents exploit 9.8 million of them. Concerning human trafficking, 2.4 million people are victims of forced labour because of human trafficking. Globally, 2.5 million people are forced to work by the State or by rebel military groups. In other words, 2.5 million people, according to ILO reports are victims of forced labour in armed conflicts. A considerable number out of this 2.5 million people are in the DRC. It is worth mentioning that these victims of forced labour include children, women and men. That is to say, any human being can be a victim of forced labour.

There exist no reliable country estimates of forced labour because many cases of forced labour escape investigation. In the absence of reliable national estimates of forced labour, the ILO has come up with an estimate of forced labour in the world, based on a large number of reported cases of

42 The Cost of Coercion, Global Report under the follow-up of the ILO Declaration of Fundamental Principles and Rights at Work, 2009.
44 ILO Global Report under the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, 2005.
forced labour. Hence, the ILO report does not show the exact number of forced labour victims in the world. It does not paint an exact global picture of forced labour. The report is a minimum estimate of forced labour in the world. Reliable country estimates can only be obtained through in-debt and systematic national field studies. In the DRC, there exist estimates of child labour. Other victims of forced labour in the region have not been well documented because emphasis has been on child labour. In the year 2000, an estimated 39.8 percent of children ages 10 to 14 years were counted as working in the DRC. Approximately 39.9 percent of all boys between 10 to 14 years were working compared to 39.8 percent of all girls in the same age group.\(^{45}\) It is well documented that children in the DRC have been negatively affected by the continuing armed conflict.\(^{46}\) Armed groups in the DRC recruit children into forced labour, sexual exploitation and armed conflicts.\(^{47}\) The total number of children associated with armed conflicts is not known but estimates vary from 20,000 to 40,000 children.\(^{48}\) The question that arises here is, how many men and women are victims of forced labour in the DRC? It is difficult to come up with a reliable estimate of victims of forced labour in the DRC because of the absence of resources. Besides, due to the illegality of the activity, victims are not documented.\(^{49}\)


\(^{46}\) The fighting in the Democratic Republic of Congo is said to be the world's deadliest conflict since the Second World War. Within a 5-year period, 3.3 million people have been killed and many others have died from starvation or disease. Families trying to escape the fighting found themselves far from water, shelter and other basic services. See UNICEF, *At a glance: Congo, Democratic Republic of the*, UNICEF, [online] n.d. [cited June 30, 2005]; available from http://www.unicef.org/infobycountry/drcongo.html.


2.2.1 Types of Forced Labour

The ILO has come up with a typology of forced labour. According to the ILO’s 2001 Global Report, there are eight forms of forced labour in the world today.\textsuperscript{50} The types of forced labour according to the ILO are discussed in the subsequent paragraphs.

The first type of forced labour is slavery. Slavery refers to a “physical abduction” followed by forced labour. Slavery involves the absolute control of one person or social group of persons over another person or group of persons. A person in a situation of slavery would obviously be forced to work. Slavery is practiced in a couple of countries today. According to ILO, slavery-related practices remain prominent in certain countries of West Africa, including the DRC, Niger and Mauritania.\textsuperscript{51}

Secondly, farm and rural debt bondage is another type of forced labour. Farm and rural debt bondage refer to a situation where workers are not paid. All their wages go towards paying for transportation, food and shelter because they have been “locked into debt” by job recruiters and landowners and they are not allowed to leave because of force, threats or the remote location of the worksites. Farm and rural debt bondage is predominant in Benin, Bolivia, Brazil, Cote d’Ivoire, Dominican Republic, Guatemala, Haiti, Mexico, Paraguay, Peru, Togo.

Thirdly, bonded labour is another type of forced labour. It is another form of debt bondage, which often starts with the worker agreeing to provide labour in exchange for a loan, but quickly develops into bondage as the employer adds more and more “debt” to the bargain. This form of forced labour is common in Bangladesh, India, Nepal, Pakistan, and Sri Lanka.

\textsuperscript{50} Stopping Forced Labour, ILO Global Report, 2001, p. 14
\textsuperscript{51} The Cost of Coercion, ILO Global Report, 2009, p. 15
Furthermore, human trafficking is another form of forced labour. Human trafficking refers to a situation in which people are forced or tricked into going somewhere by someone who will profit from selling or forcing them to work (most often in sexual trades) against their will. This type of forced labour exists in many countries that are either “origins” or “destinations” for victims. Human trafficking is predominant in Albania, Belarus, Brazil, China, France, Ghana, Hungary, Israel, Italy, Republic of Korea, Latvia, Myanmar, Nepal, Nigeria, United States, Poland, Russia, and United Kingdom among others. Human trafficking appears to be most common and wildly spread.

More so, abuse of domestic workers is another type of forced labour. It refers to a situation where maids and other domestic servants are sold to their employers or bonded to them by debt. This type of forced labour exists in Benin, Cote d’Ivoire, France, and Haiti and throughout the Middle East.

Furthermore, prison labour is a form of forced labour, although there are forms of prison labour which are allowed under the Forced Labour Convention, 1933.  

Prison labour constitutes forced labour when prisoners are contracted or hired to work, without their consent for private individuals or profit making enterprises. This form of forced labour is common in Australia, Austria, China, Cote d’Ivoire, France, Germany, New Zealand, Madagascar, Malaysia, and United States of America.

Compulsory work is another type of forced labour. With compulsory labour, people are required by law to work on public construction projects such as roads, bridges, railway tracks. It is compulsory in the sense that people are obliged to work whether they consent or not. As mentioned earlier, the absence of consent qualifies work as “forced”. Compulsory labour exists in Cambodia, the Central African Republic, Kenya, Myanmar, Sierra Leone, Tanzania, Swaziland, and Vietnam.

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52 Article 2 (2c), Forced Labour Convention (C29), 1930
Above all, military labour is forced labour. It happens when civilians are forced to do work for government authorities or the military. This type of forced labour is predominant in situations of armed conflicts like in the ongoing conflict in the DRC. Myanmar is also a notable example of a state that directly exacts forced labour on its citizens.53

For the purpose of the 2005 Global Report, the ILO re-grouped the above mentioned categories of forced labour into three main categories – forced labour imposed by the state, forced labour imposed by private agents for commercial sexual exploitation and forced labour exacted by private agents for economic exploitation.

For the purpose of this thesis, emphasis will be laid on forced labour imposed by the state and forced labour imposed by non-state actors (rebel groups). In the DRC, reports from human rights organisations show that government forces abduct civilians and force them to work. The actions of government forces, no doubt are attributable to the state. Hence, the government of the DRC exacts forced labour in its territory. As if this is not enough, the government has also failed miserably to investigate the situation and bring the perpetuators to justice. Non-state actors are also responsible for the forced labour in the DRC. Rebel groups use forced labour for economic exploitation by forcing civilians to work in goldmines in the Ituri region. People who work in forced labour situations, it is worth mentioning, have up to 20 billion United States dollars “stolen” from them in a year.54

The ILO, in the 2009 Global Report against forced labour estimated the “opportunity cost” (income lost through being in forced labour) of being in forced labour. The ILO estimated that the amount of unpaid wages to forced

egations%20made%20by%20the%20complainant%20organiz

labour victims amounts to approximately 19.6 billion United States dollars (calculations exclude the victims of forced commercial sexual exploitation). 55

2.2.2 Regional Perspective of forced labour

Forced labour is a global problem with victims distributed all across the globe in both developing and developed countries and in all regions. The ILO, in its Global Report of 2009, reports that the number of forced labour victims are largest in the Asia-Pacific region, followed by Latin America and the Caribbean and sub-Saharan Africa. Industrial, transition and Middle Eastern countries are not left out. They also have their share of forced labour victims. The wide distribution of forced labour could be linked to globalisation, migration and human trafficking.

Asia and the Pacific have a larger number of forced labour incidences in relation to their population, with a total of three victims of forced labour per thousand inhabitants. Asia and the Pacific is followed by Latin America and the Caribbean, with a total of two and a half victims of forced labour per thousand inhabitants. Sub-Saharan Africa comes is the third region in the world with the highest number of forced labour victims. Sub-Saharan Africa has one forced labour victim per thousand inhabitants. This is followed by the Middle East and North Africa with a forced labour incidence of 0.75 person per thousand inhabitants, transitional economies with 0.5 person per thousand inhabitants and industrialised countries closely follow with an incidence of 0.3 person per thousand inhabitants.

2.2.3 Measure of forced labour in the world

It is difficult to obtain precise and reliable statistics of forced labour. This is the case because forced labour is illegal and victims are usually not recorded. Hence, forced labour cannot be accurately measured. Due to the

55 The Cost of Coercion, Global Report, 2009, p. 32
difficulties involved in measuring forced labour, solid and widely accepted national estimates of forced labour are absent. The ILO has therefore decided to develop its own methodology for measuring forced labour. In line with this methodology, the ILO relies on traces of forced labour and reports of forced labour cases. This methodology leads to minimum estimates of forced labour and provides lower bounds on the total number of victims of forced labour in the world. The technical aspects of this ILO methodology are explained in more detail in a separate document.\(^5\)

The ILO in its Global Report on forced labour published in 2005 provided figures to show that there are over 12.3 million victims of forced labour in the world among whom 80 percent are in the private sector.\(^5\) This is an estimated minimum number of forced labour victims, in the sense of ILO Conventions Nos. 29 and 105. In relation to the world’s population as of 2005, it can be calculated that there are at least two victims of forced labour per thousand inhabitants. Concerning the total world labour force, four persons per thousand workers are victims of forced labour.

The number reflects an estimate of victims and not the exact figures. This is the case because, as mentioned earlier, there are difficulties involved in getting accurate figures. Figures are less reliable in regions where awareness is low or where freedom of expression is restricted. Some forced labour situations may therefore be completely unnoticed and unaccounted.

It is worth mentioning that like all estimates, this global estimate of forced labour is subject to errors. This estimate is a generalisation based on a sample. If different samples were to be examined in different occasions, the resulting estimate would be different each time.\(^5\)

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\(^5\) P. Belser et al., ILO minimum estimation of forced labour in the world, op. cit.

\(^5\) This was reaffirmed in the Global Report (The Cost of Coercion) published in 2009

\(^5\) Global Report on forced labour (Global Alliance Against Forced Labour), 2005, p. 12
2.2.5 Forced labour trends and developments

According to ILO findings forced labour is present in all regions and kinds of economies, private agents rather than state agents more frequently exact forced labour. Forced labour offences are rarely punished even when recognised by national law. In cases where forced labour is prosecuted, the sanctions are often minimal compared to the gravity of the offence. This finding has been reiterated by Roger Plant,\(^{59}\) in his presentation on “What is and what is not forced labour”, when he said, amongst other things, that eighty percent of forced labour exacted by private agents and economies mainly in the informal sector\(^{60}\) is in the private economy, but this is very, very rarely being prosecuted, if at all in most countries.” As if this is not enough, statistical data on the incidence of forced labour does not exist. Besides there is no widespread awareness in the society that forced labour is a problem that is why the ILO holds that forced labour remains one of the most hidden problems of our times.

Forced labour in my opinion persists because of weak law enforcement and the absence of effective labour inspection. The laws are clear, but there is little or no enforcement of the law. Law enforcement is a major part of the solution. Forced labour persists due to the impunity of offenders.

The war on forced labour cannot be won unless it is prevented and the victims of forced labour rehabilitated. The victims of forced labour should be identified and sustainably reintegrated into society.

\(^{59}\) Roger Plant was Head of the ILO Special Action Program to combat Forced Labour, at the time. He is now retired.

3. Case Study: Democratic Republic of Congo

Forced labour, as set out in the ILO standards on the subject is pervading the DRC while the world watches. The flagrant abuses of armed groups in the DRC show no sign of ending anytime soon. Deplorable working conditions have defined the history of the DRC since the King of Belgium colonized the country in 1885. The discussion on this chapter seeks to throw more light on the prevalence of forced labour in the DRC, how and why forced labour is exacted in the armed conflict and the ravaging impact of forced labour in the DRC.

3.1 The prevalence of Forced Labour in the Armed Conflict in the Democratic Republic of Congo

Nowadays, the world is being tested in ways we could never have imagined. The world is plagued by armed conflicts, terrorism, climate change as well as a historic global economic upheaval. These challenges are equally important. Among the on-going armed conflicts in the world, the conflict in the Democratic Republic of Congo is a major challenge facing the world today. No doubt this is the case because according to one estimate, the conflict in the Democratic Republic of Congo has directly or indirectly cost more than 3 million civilian lives, 2.5 million have been made homeless – 1.5 million displaced within the DRC’s borders, 1 million forced to flee to neighboring countries and 45 thousand people continue to die each month. The conflict in the DRC qualifies as the most deadly war for civilians since World War II. These shocking details would usually be more than enough to get media attention the world over, especially if it were to threaten
influential nations in some way. Ironically, some multinational corporations from rich countries have been profiting from the armed conflict.\textsuperscript{61}

### 3.1.1 Map of the Democratic Republic of Congo

Below is a map of the DRC (Map No.4007 Rev.8, United Nations, January 2004), showing the countries that share borders with the war-torn DRC.

![Map of the Democratic Republic of Congo](image)

### 3.1.2 How forced labour is exacted in the Democratic Republic of Congo

The Democratic Republic of Congo is plagued by war marked by violations of international humanitarian law on a colossal scale. Since the war started in 2001, civilians are still being attacked, abducted and displaced. In fact, there was an upsurge in violence in September and October 2007, which


forced more than 170,000 people from their homes in the North Kivu province.  The armed conflict in the DRC is mainly between government forces and armed militia groups. Geographically, the DRC particularly eastern Congo is blessed with moderate climate, abundant rainfall, rich soil, and huge lakes making it a virtual Garden of Eden. Despite the geographical potential of this region, armed militias plunder, rape, terrorise, murder and force people to work for them. The activities of the armed groups operating in the DRC are in violation of international labour standards in particular and international law in general. The question that arises here is: how and why is forced labour exacted in the DRC?

There are a number of organizations and UN agencies in the DRC that document the violations that take place in the course of the conflict and gather evidence to be used for future prosecutions. These agencies and organizations include the field Office of the High Commissioner for Refugees, the Special Rapporteur for the DRC and other Special Rapporteurs, the MONUC as well as national and international human rights organizations. It is through these agencies, organisations and independent sources that it is possible to have an idea of how and why forced labour is carried out in the DRC.

In the DRC, all the parties in the conflict have engaged in slaughtering civilian, raping women and girls and holding them for sexual and household services (a form of forced labour), recruiting child soldiers and using them for combat (a worst form of child labour) and pillaging and destroying civilian property. Abductions are the order of the day. The Report of the United Nations Commissioner for Human Rights on the Abduction of Children in Africa defined abduction as “…the removal, seizure, apprehension, taking custody, detention or capture of an individual, temporarily or permanently by force, threat or deception for involvement in armed forces or armed groups, for participation in hostilities, for sexual

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63 According to an article entitled “Conflict in the Democratic Republic of Congo – In depth.” Source: Oxfam International
slavery and forced labour.”65 It is through abduction that civilians in the DRC are reduced to slavery and forced labour, as their abductors exercise powers of ownership over them and force them to provide services under the threat of some form of punishment.66

In the war in the DRC, civilians are being forcibly conscripted into the armed forces. The incident that has caught international attention is the use of children as soldiers. This has been explicitly designated as a “worst form of child labour.”67 In the DRC, children are abducted and used as child soldiers by many of the parties to the conflict. According to the Global Report on Child Soldiers, in 2008, the number of governments that use children in armed conflict marginally declined – from 10 between 2001 and 2004 to 9 in 2004 to 2007. It is worth mentioning that tens of thousands of children have been released from fighting forces in the DRC, Afghanistan, Burundi, Ivory Coast, Liberia, Southern Sudan and elsewhere.68

Not only children are victims of forced labour in the DRC. Combatants also abduct girls and take them to their bases where they force them to provide sexual services and domestic labour sometimes for periods of more than a year.69 It is worth mentioning that some progress has been made in demobilizing child soldiers in the Ituri region. That notwithstanding, the abduction and recruitment continues.

In the country’s north-eastern Ituri district, soldiers force scores to work for them in the goldmines and fields. According to Human Rights Watch, on September 17, 2006, government forces abducted nine civilians including

66 The Slavery Convention defines slavery as “the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised”. The ILO Convention No. 29 defines forced labour as “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily”.
67 Article 3(a), Convention concerning the Prohibition and immediate Action for the Elimination of the Worst Forms of Child Labour (Convention No. 182), 1999.
68 Global Report on Child Soldiers (Coalition to Stop the use of Child Soldiers), 2008
69 Briefing of the 60th session of the UN Commission on Human Rights, January 2004.
four women and two children. They were taken to a military camp near Olongba village, an area just south of the Ituri capital – Bunia. It is believed that they were forced to provide services for the soldiers or killed.\textsuperscript{70} It is worth mentioning that they have since “disappeared” and their family members believe that they were killed. In another incident on August 11, twenty civilians were abducted in the town of Gethy. Human Right Watch reports that the soldiers forced them to harvest and transport manioc. This in my mind is a situation of forced labour, which is contrary to ILO standards and other international human rights law standards. The whereabouts of the twenty civilians who were abducted on August 11 remain unknown.

Evidence of the prevalence of forced labour in the DRC’s Ituri district lie in the statement of Alison Des Forges, Senior Africa Adviser at Human Rights Watch when he said “Civilians being held without charge to provide free labour to the soldiers must be released at once.” Victims and eyewitnesses in the Ituri district interviewed by Human Rights Watch also provided admissible evidence to the existence of forced labour in the area. In August and September 2006, Human Rights Watch interviewed dozens of victims and witnesses. Those interviewed described a pattern of forced labour by government forces who abduct civilians and force them to work harvest and collect food, work in local gold mines, or to transport good. Of particular significance to me is the story of an elderly man who described how government soldiers in August 2006 took him from a displacement camp at Kagaba village and forced him to carry firewood and manioc to their military camp. Government soldiers held this elderly man for five days.\textsuperscript{71}

Further evidence of forced labour in the armed conflict in the DRC lies in the direct experiences of Human Rights Watch on the ground. In August 9, 2006, Human Rights Watch witnessed forced labour first hand. Human Rights Watch witnessed two government soldiers forcing six civilians including women and children to carry chairs, benches and corrugated metal

\textsuperscript{70} War Crimes Prosecution Watch, Volume 2 – Issue 5, October 2006. Web link: http://www.publicinternationallaw.org/warcrimeswatch/archives/wcpw_vol02issue05.html
\textsuperscript{71} Human Rights Watch, Brussels, October 16, 2006
roofing looted from a nearby church to their military camp. It is worth mentioning that the soldiers, when questioned claimed they were “escorting the people to their own safety.” The victims who contradicted this claim explained that they were forced at gunpoint to carry the chairs, benches, and corrugated metal.

This overwhelming evidence points to the prevalence of forced labour in the armed conflict in the DRC and explains how soldiers exact forced labour against civilians. I will now proceed to answer the question of why armed groups in the DRC exact forced labour.

3.1.3 Why forced labour is exacted in the Democratic Republic of Congo

A number of reasons explain why forced labour is exacted in the war-torn region of the DRC. These reasons could be safely divided into three categories namely: economic, social and political reasons.

Primarily, the availability of natural resources in the DRC in general and in the eastern provinces of North and South Kivu in particular has played a great role in the prevalence of forced labour in the DRC. It is worth reiterating here that the North and South Kivu provinces are the two areas mostly directly affected by the armed conflict in the DRC since 1996. These two areas are rich in minerals – specifically coltan and cassiterite. These natural resources attract many foreign companies to the war-torn region of the DRC. Companies rush to the area to exploit these natural resources. Foreign companies in the area exploit and trade these resources in a way that perpetuate the conflict and the same companies directly contribute to funding armed rebel groups and grave human rights abuses in the DRC. The role of natural resources in fuelling the armed conflict in the DRC is well

72 Coltan is a mineral from which precious metals like columbium and tantalum are extracted. Tantalum is used in the manufacturing of capacitors for electronic equipment such as mobile phones. Cassiterite is one of the most important ores of tin. Tin is used in coating of metals and the manufacture of circuit boards.
documented by Global Witness, a London-based NGO which undertook first-hand research on cassiterite trade in the DRC including a field trip to North and South Kivu in February 2005. It has also been reported that companies involved in mineral exploitation in the DRC, source some of their raw materials from mines where forced labour was used and where miners worked in life threatening conditions. A good example of such companies is a British company called Afrimex (UK). Afrimex (UK) is a privately owned mineral trading company registered in Wembley, United Kingdom (no. 01738800). Despite the efforts of the UN Panel of Experts which investigates organisations involved in illegal exploitation of natural resources during the conflict in the DRC, Afrimex traded and has continued to trade minerals in a way that perpetrate the conflict in the DRC. In August 2008, Afrimex was censured by the British government for its activities in the DRC. The company applied insufficient diligence in sourcing materials from mines that use forced and child labour. It should be noted that not only foreign companies exploit minerals in the DRC in a way that perpetuates forced labour and other human rights abuses. The official army of the DRC, sometimes backed by the UN also engages in large-scale human rights violations in the DRC, in spite of UN intentions to help protect civilians and bring peace to the region. In January 2009, the Congolese and Rwandan governments, with the support of the UN peacekeepers, began joint military operations against the FDLR. Human Rights Watch documented crimes against civilians by the FDLR, Congolese army and sometimes the Rwandan army. Despite the good intentions, the

73 Global Witness’ research on the role of natural resources in fuelling the conflict in the DRC are contained in the report - ”Under-mining peace – Tin: the explosive trade in cassiterite in eastern DRC”, June 2005.
74 UK Companies House.
75 Complaint to the United Kingdom (UK) National Contact Point, ”Afrimex (UK) Democratic Republic of Congo”, February 2007, p. 2.
76 Final statement by the UK National Contact Point for the OECD Guidelines for Multinational Enterprises: Afrimex (UK) Ltd, 28 Aug. 2008. The statement was made in response to a complaint brought in 2007 by Global Witness, a UK-based civil society organization that investigates the links between natural resource exploitation, armed conflict and corruption.
UN peacekeepers’ role, providing substantial support to the Congolese army, has implicated peacekeepers in the human rights violations in the region. However, the Congolese army spokespersons say local militia groups are responsible for abducting and forcing civilians to work. This claim has of course, been countered by eyewitnesses and local human rights monitors.

In the social domain, the need for sexual gratification is a remote reason why forced labour continues to be exacted by armed groups in the DRC. The majority of government soldiers and rebels in the war-torn region of the DRC are men. These men leave their wives and children and carry out operations in the jungle and caves where they spend most of their time. These men stay away from home for days, months and even years. Operating from the jungles, “sex starved” armed men abduct innocent women and girls and use them as sex slaves. Women in the DRC are forced to deal with tragic situations at the hands of foreign militias and the Congolese army. These armed men are separated by the conflict from their wives and children and they go out on a “raping spree”. They hold women captive for months and years and use them as “comfort women”. The soldiers repeatedly gang rape their victims and force them to provide other services. Human Rights Watch reports that government soldiers accuse women of being supporters or wives of rebels, gang rape them. In a village South of Kivu (Kihonga), two soldiers raped a woman, and as if this was not enough, they abducted her husband and forced him to transport their looted goods.79 Other women were abducted by soldiers to be sex slaves in their camps, under the threat of being killed if the ever tried to resist when soldiers want to have sex with them. Sometimes groups as large as twenty men systematically rape and sexually assault women and girls.80 Sex slaves are victims of forced labour. Hence, the separation of men from their

families is a potential cause of forced labour in the war-torn region of the DRC.

Furthermore, the impunity with which forced labour is exacted in the conflict in the DRC is a reason why the Congolese army and armed militias continue to use forced labour. Two successive wars have devastated the DRC and its population. The first war broke out in 1996 and the second in 1998. During both wars, the DRC was a theatre of very violent fighting between regular armed forces and forces of dissidents. Many people were killed and many were subjected to forced labour and other grave human rights violations. On 26 May 2004, the city of Bukavu did not sleep, but awoke to gunshots.⁸¹ That was six years after the end of what was known in the DRC as the “second war.” The timing of these conflicts are different but they share a common outcome – systematic human rights violation ranging from forced labour, to rape, war crimes and crimes against humanity. The events in 2004 killed about one hundred people, wounded many others and led to the fall of Bukavu into rebel hands on 2 June 2004. The events were reminiscent of the Kabila epoch of October 1996 and that of the RCD in August 1998. The events in Bukavu and its environs were accompanied by systematic forced labour, killings, rape of women and even babies. The question that arises here is why does history repeat itself in the conflict in the Democratic Republic of Congo? The answer is simple: Impunity. Some of the people who plan and execute human rights violations in the DRC are known, their abuses are well documented and they have ben reported to the appropriate authorities, but they have not been prosecuted.⁸² The perpetuators of the violations in the DRC have even been compensated. On July 2002, the parties to the conflict signed a peace accord in Pretoria. The agreement allowed for power sharing among the different factions, implying that crime can pay. When the transitional institutions were put in place in Kingshasa, the RCD, MLC, Mayi-Mayi (or Mai-Mai, the RCD-Kisangani which later became the RCD-ML), non-armed political opposition and civil

⁸¹ Innocent Balemba, “War and Impunity in the DRC: Sowing the seeds for catastrophe.”
society shared power. Besides the non-armed political opposition and civil society, it could be concluded that there was a power sharing among criminals. Forced labour and other human rights violations would continue until the architects of such suffering will stop being “compensated” and brought to justice. Impunity for the staggering human rights abuses committed by all parties to the conflict, therefore is a reason why forced labour continues to be exacted in the DRC. Although the military courts in the DRC have rendered a small number of decisions on human rights violations, the culture in the DRC is one of generalised impunity. There have been attempts to hold perpetrators of human rights violations in the DRC accountable. One of such attempts was the disturbing case of Yves Kawa Mandro. As of today, three suspects are at the Hague, awaiting justice to be served by the International Criminal Court (ICC).

3.2 Impact of Forced Labour in the Democratic Republic of Congo

It is no secret that forced labour has great negative consequences on any society in which it is exacted. The DRC is therefore not an exception. Forced labour in the armed conflict in the DRC has many far-reaching and varied consequences.

The psychological consequences of forced labour in the DRC remain largely unexplored. Authorities state that when people are forced into exploitative work situations against their will, they risk losing their sense of personal efficacy and control. Under the control of armed soldiers and rebels, victims of forced labour may experience feelings of betrayal, shame and isolation.

83 Yves Kawa, President of the Parti pour Lunite et la sauvegarde de l’integrite du Congo (PUSIC) in Bunia was sentenced to life imprisonment by the Court of First Instance of the Bunia district for murder and associating with criminals. But charges of war crimes and crimes against humanity were dropped. The Court of Appeal decided that the accused benefited from the amnesty law promulgated by President Kabila providing amnesty for acts of war and political offences committed between 1999 and 2003. He was acquitted on February 2008.
84 Thomas Lubanga, Germain Katanga and Mathieu Ngudjolo. Web link: http://www.icc-cpi.int/Menus/ICC/Situations+and+Cases/Situations/Situation+ICC+0104/
They may fear being killed if they resist work, after the work is done or being caught in the crossfire between armed groups. They may witness or experience repeated threats and verbal abuse, involuntary confinement, torture and sexual assault. Armed rebels in the DRC for example, frequently sexually abuse women. Rebels use rape and other sexual violence as a weapon of war in order to humiliate, punish, control, inflict fear and displace women and their communities. Removed from their families and friends, forced labour victims lack social support to help cope with these traumatic assaults. Cases have also been reported of women being held by soldiers and rebels as “comfort women.” In this capacity, they provide the armed men with sexual gratification. These have far-reaching psychological consequences on the victims of forced labour.

Forced labour is largely a clandestine practice therefore; it is likely that many health problems of victims go untreated for long periods. Violence is mostly used by the perpetrators of forced labour as a means of “breaking” and controlling the workers. Congolese men, women and children who serve as labourers (including in mines), porters, domestics and sex slaves reported that they were frequently beaten if they complained about their working condition. The perpetrators, the victims said, encouraged the beating as a form of punishment or as a way to maintain order. Violence-related injuries associated with forced labour include bruises, broken bones, head wounds, stab wounds and mouth and teeth injuries.85 Victims of forced labour are rarely in control of their own health-care decisions. Women and girls who are forced to work as “comfort women” face the risk of contracting HIV because they may lack the power the power to insist on the use of condoms. Women who become pregnant lack access to appropriate prenatal care or are forced to abort. Some resort to unsafe abortions. Women can suffer from severe consequences because of undiagnosed and untreated gynaecological infections and complications, including pelvic inflammatory

disease, chronic pelvic pain, ectopic pregnancy and sterility. The majority of rape victims who survive do not receive medical attention after their assault. Following rape, many girls are abandoned by their families and communities and condemned to lives of poverty. Not only women are victims of sexual violence in the DRC. According to a survey conducted by Oxfam International in which 30 male and 30 female focus group discussions were held, men and boys also face sexual violence. This happens in nearly half the communities surveyed in North Kivu and in some parts of South Kivu.

The perpetrators of forced labour, in this case the armed soldiers and rebels fail to provide the forced labour victims with adequate nutrition. Consequently, the victims become malnourished in captivity and are at risk of long term illnesses. It could be argued here that the victims of forced labour in a war-torn region like in the DRC would not have adequate nutrition whether they are in captivity or not because the whole region is plagued by hunger and malnutrition. This argument however does not hold water because victims of forced labour do no even have the slightest opportunity to try to get adequate nutrition or move to a region where adequate nutrition could be available. It is reported that the perpetrators of forced labour at times withhold food as a form of punishment. Malnutrition was highlighted as a lingering consequence of the war in the DRC by Jan Egeland, UN Under-Secretary-General for Humanitarian Affairs in his words: “Each and every day, more than 1,200 people in the DRC die from the lingering effects of civil war: malnutrition, disease and displacement.”

Even if victims of forced labour are finally released from captivity, they may not find professional care in the DRC because of the war that is raging in the country. The war has destroyed medical facilities making health care an illusory concept for many people in the region. Without access to proper

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health care, victims can potentially pass on communicable diseases to members of the community where they are held captive.

Survivors of forced labour in the DRC are deprived of safety and housing. It is important that survivors of forced labour should undergo screenings to identify and pre-existing or acquired health problems. The best health professionals who are suited to provide the medical attention needed by the victims of forced labour in the DRC are health professionals who are familiar with tropical health issues as diseases common in the DRC may not be familiar to or easily recognized by an expatriate who is not an expert in tropical diseases. It is worth mentioning at this point that health professionals in the DRC also face threat of being abducted. A notable case is the case of Doctor Faustin Sosso who was abducted in Central Kinshasa by armed men, believed to be members of the Garde Republicaine, President Joseph Kabila’s presidential guard.87

PTSD88 and other mental health effects could be suffered by victims of forced labour in the DRC because of their forced conscription. The subjection of human beings to forced labour conditions exposes them to terrifying event as they witness grave physical harm being inflicted on them or other victims. In the case of children in the DRC who are being forced to work either as porters, sex slave or in worst conditions as child soldiers, the psychological effect of them is greater. In the case of children, the Pan American Health Organisation reports “traumatic sexualization, betrayal, powerlessness and stigmatization involved in sexual exploitation are particularly damaging to child and adolescent development and can lead to

88 The National Institute of Mental Health defines PTSD as an anxiety disorder that can develop after exposure to a terrifying event or ordeal in which grave physical harm occurred or was threatened. National Institute of Mental Health, Facts about Post-Traumatic Stress Disorder, http://www.nimh.nih.gov/anxiety/ptsdfacts.cfm.
various types of psychiatric morbidity.”89 Children who witness acts of violence or repeated sexual abuse are at significant risk of developing PTSD, among other diseases.90 People diagnosed with PTSD tend to relive the ordeal through nightmares, flashbacks and memories. They may also experience excessive alertness. Other common symptoms include emotional numbness, depression, irritability, inability to sleep, difficulty concentrating or completing tasks and outburst of anger. According to the American Psychiatric Association, these symptoms can be severe and last long enough to have an adverse effect on the daily life of the individual.

4. Comparative Study

Forced labour is a global problem and is by no mean limited to the DRC. As earlier mentioned, the different forms of forced labour prevail in different societies in other parts of the world including Myanmar (formerly known as Burma), China, North Korea, Sudan, just to name a few. This Chapter is aimed at comparing forced labour in Sudan with forced labour exacted in the armed conflict in the DRC as well as the ILO response to both situations.
4.1 Forced Labour in Sudan

Sudan, which is officially called the Republic of Sudan is a country in north-eastern Africa. It is the largest country in Africa and the largest Arabic-speaking country. As seen on the map, Sudan is bordered by Egypt to the North, Eritrea and Ethiopia to the east, Kenya and Uganda to the southeast, the DRC and Central African Republic (CAR) to the southwest, Chad to the west and the Red Sea to the northeast.
Like the DRC and other countries in Africa, Sudan is rich in natural resources such as petroleum and crude oil and Sudan has a long history of armed conflicts. After gaining independence from the United Kingdom in 1956, Sudan suffered a civil war which lasted 17 years followed by religious, economic and ethnic conflicts between the Northern Sudanese (mostly with Arab roots) and the Christians in Southern Sudan.

The present president of Sudan Omar al. Bashir seized power in 1989 and his presidency has been marked by armed conflicts such as the Darfur conflict, with thousands of people being displaced and killed in what is today called a genocide.

It is worth mentioning that Sudan has been a member of the ILO since it gained independence in 1956.91 Sudan ratified the ILO Convention No. 29 in 1957 and Convention No. 105 in 1970. Despite being a member of the ILO, and having ratified the forced labour conventions, forced labour is being exacted in the Darfur armed conflict. This is similar to the situation in the conflict in the DRC, which is also an ILO Member State.

In the DRC and Sudan, there is a common pattern of abductions. In Darfur, Government supported militia like the janjaweed, together with the Sudanese Armed Forces have systematically abducted civilians for the purpose of sexual slavery and forced labour.92 In the DRC, the situation is not different. Armed groups abduct civilians for the same purposes. The abduction of civilians in the Darfur conflict has not stopped. In 2008 the government of Sudan, before the Conference Committee on the Application of Standards stated that there were no further cases of abduction and forced labour in the country. However, evidence from Anti-Slavery International points to the fact that abductions are still on going and are similar to those

91 ILOLEX, last updated 20.05.2009, web link: http://www.ilo.org/ilolex/english/mstatese.htm
92 According to a research carried out by the Darfur Consortium, Web link: http://dev-antislavery.doteditor.net/includes/documents/cm_docs/2009/d/darfur.pdf
that took place in southern Sudan during the 1983-2005 civil war.\textsuperscript{93} It is important to mention that governments of both the DRC and Sudan try to distance themselves from the abductions and forced labour that prevail in their countries.

Forced labour in the DRC and Sudan is mostly exacted by non-state actors (rebel groups). The governments of both countries have little or no control over the exaction of forced labour in their territories. In Sudan, the Sudan Liberation Movement/Army and the Justice and Equality Movement have been reported to have been involved in the abduction of civilians and forced recruitment of soldiers (including child soldiers). Anti-Slavery International revealed the story of Abouk Dout Dout Aging, a woman who was kidnapped in a raid by the Murahaleen and enslaved in South Darfur.\textsuperscript{94} In the DRC, the main rebel group - Rally for Congolese Democracy (RCD) that was led by rebel General Laurent Nkunda.\textsuperscript{95} Despite the fact that most of the forced labour and other atrocities are committed by rebel groups, government troops and government-supported militia are not off the hook. They have also participated in implementing forced labour. In the DRC, government and government-supported militia groups such as the FARDC have forcibly abducted and conscripted civilians, including children.\textsuperscript{96} In Sudan, government has armed, funded and mobilized militia like the janjaweed who have committed their own share of gross violations of human rights, including the implementation of forced labour. Civilians of the same ethnic group as the rebel groups have been targeted by the janjaweed.\textsuperscript{97}

\textsuperscript{94} Anti-Slavery International, web link: http://dev-antislavery.doteditor.net/english/slavery_today/forced_labour_in_sudan.aspx  
\textsuperscript{95} British Broadcasting Corporation (BBC) report, 23 January, 2009, web link: http://news.bbc.co.uk/2/hi/africa/3786883.stm  
\textsuperscript{96} According to the Office of the Special Representative of the Secretary-General, web link: http://www.un.org/children/conflict/english/democratic-republic-of-the-congo.html  
There more UN peacekeeping forces in the Sudan compared to the number of peacekeepers in the DRC. The UN mission in the DRC, known as MONUC is the largest peacekeeping operation. According to the Security Council Resolution 1291 (2000), 24 February 2000, the MONUC had an authorized strength of up to 5,537 military personnel, including up to 500 observers. Security Council Resolution 1856 (2008) of 22 December 2008 increased the strength of the MONUC to up to 19,815 military personnel, 760 military observers, 391 police personnel and 1,050 personnel of formed police units. Despite the large scale of peacekeeping forces in the DRC, civilians are still being abducted and placed in forced labour conditions. In the Sudan, the peacekeeping operation is called the African Union-United Nations Hybrid Operation in Darfur (UNAMID). The UNAMID is the largest UN peacekeeping operation. It was launched in 2007 after many months of negotiation. The UN Security Council adopted a resolution to create a 26,000-strong “hybrid” UN-African Union force. It is worth mentioning that before the UNAMID was launched in 2007, there was the United Nations Mission in the Sudan (UNAMIS), which was authorized by UN Security Council Resolution 1870, 30 April 2009, with headquarters in Khartoum, Sudan. Despite the presence of large scale UN peacekeeping forces in the DRC and Sudan, the armed conflicts continue and civilians continue to be abducted and placed in forced labour conditions. In the DRC, atrocities against civilians continue and many are dissatisfied with the UN peacekeeping mission, including UN peacekeepers themselves.

The government of Sudan is allegedly a key player in the Darfur armed conflict. This is contrary to the situation in the DRC where the government is fighting against rebel and militia groups. In Sudan, there are allegations

about the government fuelling the conflict. Much of the violence in Sudan is attributed to militias known as the janjaweed. The janjaweed militiamen are primarily members of the nomadic “Arab” tribes who have been at odds with the Darfur’s settled “African” farmers, over the regions scarce land and water resources. Victims and international observers allege that the janjaweed are no longer a small rebel group. They are well-equipped and enjoy the support of the Sudanese government. The atrocities committed by the janjaweed has been linked to the Sudanese government for a long time, culminating in the International Criminal Court (ICC), on March 4, 2009, issuing an arrest warrant for Sudanese President Omar Hassan al-Bashir charging him with seven counts of war crimes and crimes against humanity.101 This is a big contrast with the situation in the DRC where the government distants itself from rebel groups and fights to hunt them down. Besides, the President of Sudan has not been issued a warrant of arrest for crimes against humanity and war crimes in the DRC.

5. Role of the International Labour Organisation in the Democratic Republic of Congo

The ILO champions the global movement against forced labour, compulsory labour and slavery-like practices and it was the first organization to implement an economic and social reintegration programme for people affected by the armed conflict in the DRC.\(^{102}\) The ILO has been at work to end the prevalence of forced and compulsory labour in the armed conflict in the DRC, especially the worst forms of child labour, derived from ILO Convention No. 182.\(^{103}\)

Through the International Programme on the Elimination of Child Labour (IPEC), the ILO supports countries, including the DRC to reach the target of eliminating the scourge of the worst forms of child labour by 2016.\(^{104}\) The global action plan to eliminate child labour lays out IPEC’s strategy at country, regional and global levels.

The ILO, through IPEC, with the financial support of the United States Department of Labour (USDOL) launched a programme to prevent and reintegrate children involved in armed conflicts in Burundi, Congo, DRC and Rwanda – all in the Central African sub-region.

The objectives of the programme in the DRC, like in all the other aforementioned countries, include:

- Enhance knowledge on the situation and needs of children affected by war.

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\(^{102}\) The ILO in the Democratic Republic of Congo; Briefing note No. 8 in preparation to the CWGER mission to DRC. ILO/CRISIS, October 2007. Pg. 2.

\(^{103}\) Article 3 (a) of ILO Convention (No. 182) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour

- Increase the capacities at country level to solve the scourge of child soldiers.
- Identify a common strategy for the second phase.

It is worth mentioning that the DRC was among the countries covered in the second phase of the project, which started in November 2003.

The ILO, through the IPEC has made the following contributions, amongst others, to combat the worst forms of child labour in the DRC and other countries covered by the programme, from June 2003.

In the domain of education, initiatives are ongoing, to ensure access to education to children, especially girls at risk. The contribution in this domain is by way of recruitment of teachers, development of teachers’ training materials, support for redesign of curriculum, renovation of school buildings, pay school fees, uniforms, or textbooks. The goal is to prevent 3,000, through education, from the worst forms of child labour in the target countries.

The ILO, through the programme ensures that legislation in the DRC and other covered countries is in line with international standards and meet treaty obligations.

IPEC intervenes in the DRC to offer social and economic alternatives for the rehabilitation of children in armed conflicts. To accomplish this, the ILO-IPEC offers grants for income generating activities to help affected children support themselves financially, establishes child protection networks to protect children in regions plagued by armed conflicts.

Through the Technical Cooperation (TC) programme, the ILO has helped demobilize and reintegrate ex-combatants through the promotion of small
enterprises and income generating activities. The beneficiaries of the programme include some 7020 men and women (ex combatants).\textsuperscript{105}

From the above, it is evident that until date, the ILO has played a major role to combat the worst forms of child labour in the armed conflict in the DRC. Other victims (men and women) in the region have not been paid a fair share of attention. Over the years, the ILO has devoted enormous resources to secure a future without child labour. Significant progress has been made in this domain and the goal is within reach. It is time for the ILO to devote a fair amount of resources and time to secure future prospects of decent work for women and men in the DRC and other countries involved in armed conflicts. Their rights are equally important.

\textsuperscript{105} The ILO in the Democratic Republic of Congo. Briefing Note No. 8 in preparation to the CWGER mission to the DRC. ILO/CRISIS, October 2007. Pg. 2
6. Conclusion and recommendations

The European scramble and colonization of Africa in the quest to exploit the mineral resources of the region contributed to the establishment of the concept of forced labour in the region. During the colonial era that started in 1887, the Belgians forced the local population to work in the diamond, copper and gold fields to provide raw materials for industrialization in Europe. This system of mineral exploitation spilled over to the post-colonial era. The DRC is rich in minerals such as gold, diamond and copper and there is a high demand for cheap labour for profitable exploitation of the minerals. In the absence of cheap labour and an effective government in place to provide checks and balances, armed groups exact forced labour (just like the colonial administration) to exploit the minerals in the oil rich DRC. Foreign companies have also been accused of using forced labour in the DRC. No doubt, this is a continuation of a pattern of forced labour, which was set as far back as the colonial era. Therefore, the contribution of colonization to the prevalence of forced labour in the DRC cannot be ignored.

The government of the DRC, which is party to all the ILO forced labour conventions, has repeatedly been criticized by international human rights organizations for not complying with the ILO forced labour standards and other ratified international human rights standards. Forced labour, abductions and other slavery-like practices continue to prevail in the DRC, with thousands of victims. No doubt, some actions have been taken to curb human rights violations in the DRC.106 This is a positive development which goes a long way to deter further human rights violations. However, events in the DRC have demonstrated that these actions will not put an end to forced labour and other violations. The DRC remains a source and

106 The arrest of rebel leader, General Laurent Nkunda, whose rebel offensive in Congo led to outrageous humanitarian crisis. He was arrested by a joint operation by Rwandan and Congolese troops, on 23 January, 2009.
destination of forced labour. Forced labour remains prevalent in the eastern provinces which are infested by armed groups such as the Democratic Forces for the Liberation of Rwanda (FDLR), the National Congress for the Defense of the People (CNDP). No doubt, these armed groups are outside government control but the government has a duty to protect civilians in its territory. Rebel groups continue to perpetrate forced labour in the region by abducting civilian, including men, women and children to serve as labourers, porters, sex slaves, combatants. Some insignificant arrest of culprits have been made by the Government but there is still more to be done.

The government of the DRC lacks the resources to effectively address forced labour in the region. This is where the international community comes in. International partners should work with the government of the DRC to stop forced labour and to ensure that victims of forced labour receive appropriate protective services. Many, if not all of the parties involved in the armed conflict in the DRC have committed serious human rights violation, including forced labour.

The government of the DRC is party to many international conventions that outlaw the use of forced labour. Some of these international standards include the ILO Convention No. 29, Convention No. 105, the ICCPR, amongst others. By virtue of the fact that the government of the DRC has ratified these conventions, the government has an obligation to protect civilians in its territories from being abducted and conscripted into forced labour conditions.

The victims of forced labour in the armed conflict in the DRC are numerous. The majority of victims are women and children. Just like in any armed conflict, women and children make up the majority victims of the conflict in the DRC. Men make up a sizeable minority. Children are abducted and conscripted into armed groups where they serve as child soldiers, women and girls are abducted, raped and or forced into sexual
slavery. Women and children make up the foundation and represent the future of society. They therefore should be protected from outrageous human rights violations like what they face in the DRC.

Victims of forced labour may be held for limited periods or for long periods. They usually break free through escape or in some instances, they are released by their captors. They are released sometimes because their captors constantly move. Captors and perpetuators of forced labour in the DRC are mostly armed militiamen and they are usually on the move. They release their victims sometimes for fear that victims will slow them down as the move.

The impacts of forced labour in the DRC are far-reaching and destroy the core values of the society. It is evident that forced labour is not limited to the DRC. Other parts of the world are also plagued by the exaction of forced labour. A notable example is the Sudan. The conflict in Sudan also perpetuates the exaction of forced labour of a similar fashion like the situation in the DRC. The situation is Sudan is no doubt different from the situation in the DRC in a number of ways.

Immediate action is needed to end the exaction of forced labour in the armed conflict in the DRC, and to release and assist those already being held in forced labour conditions. This can be achieved by the full deployment of the present authorised strength of the MONUC (up to 19,815 military personnel, 760 military observer, 391 police, and 1,050 personnel of formed police units). In my opinion, the extension of MONUC’s mandate to allow it to use force to protect civilians will help reduce abductions and the exaction of forced labour in the DRC by armed groups.

In light of continuous forced labour and related human rights violations in the DRC, the following recommendations should be considered:

The government of the DRC should welcome the move of the International Criminal Court (ICC) to bring justice to the DRC by beginning the second trial of two warlords, Germain Katanga and Mathieu Ngudjolo for war crimes and crimes against humanity committed in the DRC’s northeast Ituri district.

The government should welcome the arrest of Ignace Murwanashyaka, the president of the FDRL and his deputy, Straton Musoni, by German police officers, in Germany on November 17, 2009. This is evidence that international cooperation is primordial in bringing justice and the respect for human right in the DRC.

The government of the DRC should take all necessary measure to ensure the arrest of warlord Bosco Ntaganda, who is still at large. Ntaganda is wanted by the ICC but he is still in eastern Congo, where he continues to commit serious abuses. The government has cooperated with the ICC to an extent. It ratified the Rome Statute, in 2002, which created the ICC. The government has also played a major role in the arrest of warlords, including Germain Katanga, Mathieu Ngudjolo and Thomas Lubanga Dyilo. The government has however been reluctant to arrest Bosco Ntaganda.

The government should fully cooperate with the ICC to bring justice to the DRC.

The government should ensure that reparations are made to victims of human rights violations, by court order.


109 The three warlords, Katanga, Ngudjolo and Lubanga are as of today, 7 November 2009, facing trial at the ICC in the Haque. Web link: http://www.icc-cpi.int/Menus/ICC/Situations+and+Cases/Situations/Situation+ICC+0104/
The government of the DRC should invite and ensure the safe and free movement of human rights monitors and defenders. This will encourage them to investigate and report on the situation of forced labour and other human rights violations in the DRC. An independent verification of the situation in the DRC, would shed light to the prevalence of forced labour and expose the culprits.

The government should publicly declare the illegality of forced labour and other violations and take the necessary steps to guarantee the constitutional rights of forced labour victims.\textsuperscript{110}

The government should take immediate action to protect civilians from forced labour and other violations. Armed groups that have been responsible for violations of human rights must be disarmed.

The government should strengthen the police, lawyers, judges, volunteers and all those who investigate and prosecute forced labour, crimes of sexual violence and other human rights violations.

The government should work with non-state actors involved in the fight against forced labour and other violations, especially NGOs.

The Constitution of the DRC makes provisions for the rights of women.\textsuperscript{111} According to Article 15 of the Constitution, any sexual violence intended to destabilize or break up a family, is a crime against humanity punishable by law. The government should therefore take steps to stop sexual slavery and the use of rape as a weapon of war in the conflict in the DRC.

The United Nations Security Council (UNSC) should call on UN member States to support the work on MONUC by allocating the necessary

\textsuperscript{110} Article 16 of the Constitution of the DRC expressly prohibits forced labour. Web link: http://www.presidentrdc.cd/constitution.html

\textsuperscript{111} Article 14 of the Constitution of the DRC.
resources needed operate more efficiently. This should also call for a full deployment of MONUC forces to help bring peace to the DRC.

The UNSC should call the government of Belgium to public apologize to the people of the DRC, for the forced labour and other human rights atrocities inflicted on them by the colonial regime to King Leopold II. It is important for the government of Belgium to apologize because the events in the Congo during the colonial era set the stage for forced labour practices in the region today. Such an apology will send a strong signal to the people of the DRC that forced labour is illegal, immoral and shames humanity.

The UN should impose targeted sanctions on individuals and corporations responsible for or encourage forced labour and other grave human rights violations in the DRC.

The UN peacekeeping force should immediately cease support to the government forces in the DRC until it is clear that the government forces are not involved in human rights violations as reported. Clear procedures and means to evaluate them should be put in place to prevent human rights violations in UN-backed military operations.

MONUC should train law enforcement units like the police, working to protect civilians and promote human right in the DRC. This will build a strong foundation for human rights in the region, even after the MONUC pulls out.
Bibliography

Books

Adebajo, Adekeye and Sriram, Chandra Lekha, Managing Armed Conflicts in the 12st Century, 2001, Routledge


Reports


Human Rights Watch, Renewed Crisis in North Kivu, Democratic Republic of Congo, Volume 19, No. 17 (A), October 2007


Report of the Special Representative of the Secretary-General for Children and Armed Conflicts, United Nations General Assembly, 60th Session, 2005.


**International Instruments**


*Convention against Torture and Other Cruel, inhuman or Degrading Treatment or Punishment*, adopted by the United Nations General Assembly, Resolution 39/46, on 10th December 1984.


Articles


**Internet Sources**


Anti-Slavery International. Available at: www.antislavery.org


Available at:


**National Documents**

Constitution of the Democratic Republic of Congo
# Table of Cases

The Prosecutor V. Germain Katanga and Mathieu Ngudjolo Chui, ICC-01/04-01/07

The Prosecutor V. Omar Hassan Ahmad Al Bashir, ICC-02/05-01/09

The Prosecutor V. Thomas Lubanga Dyilo, ICC-01/04-01/06