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# **Customary Authority and the Formalization of the Artisanal Mining Sector in Eastern Democratic Republic of the Congo**



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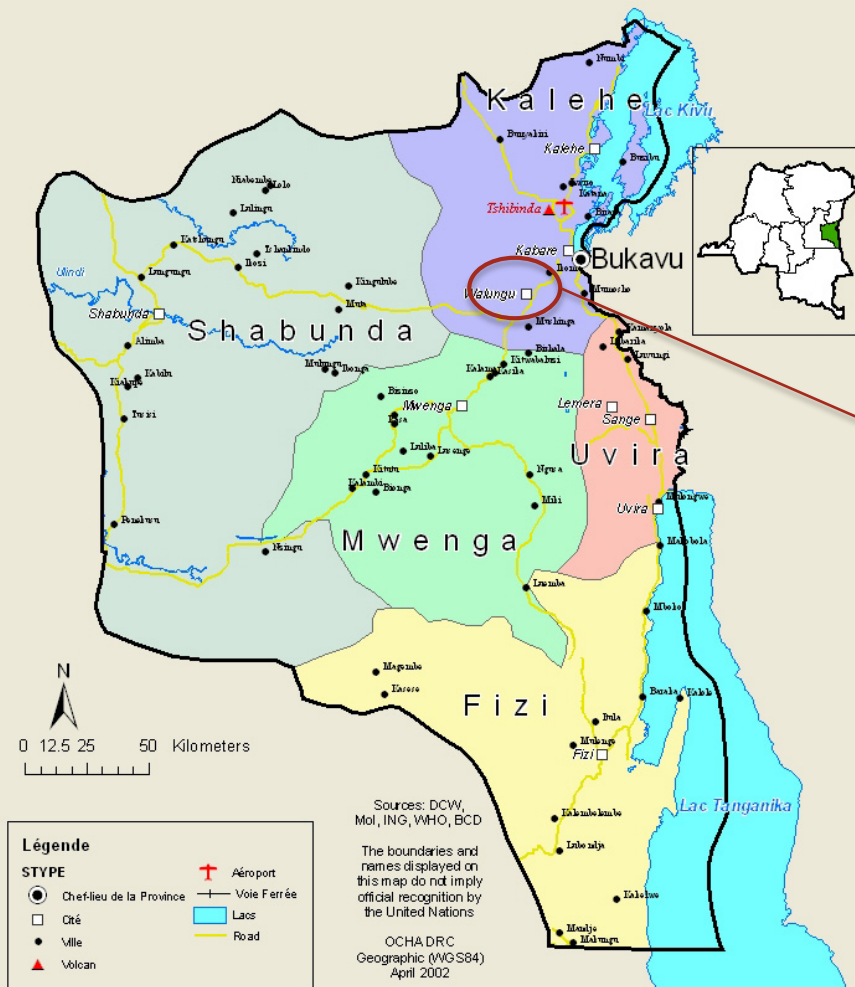


# Capacity Building for Responsible Minerals Trade (CBRMT)

The USAID-CBRMT project supports the establishment of responsible mineral supply chains through **capacity building, due diligence and traceability.**



# The NGWESHE Chefferie in South Kivu Democratic Republic of Congo



<https://www.caidd.cd>

<http://www.skyscrapercity.com/>

# FORMALIZING THE ARTISANAL GOLD TRADE IN THE DEMOCRATIC REPUBLIC OF CONGO

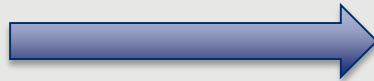
## Current ASM Situation

- UNCONTROLLED



CONTROLLED

- INDIVIDUAL



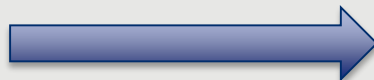
COOPERATIVE

- ILLEGAL



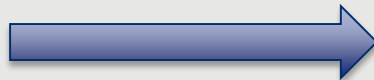
LEGAL

- OPAQUE



TRANSPARENT

- INFORMAL



FORMAL



# Duality of ASM Statutory and Customary Systems

## **Governance of Customary Artisanal Mining Arrangements**

- Informal Taxes
- Complex Local Level Rules & Regulations
- Community Expectations and Adherence to Local Level Rules and Regulations

## **Governance of Statutory Regimes**

- Regulatory Taxes
- Administrative Rules and Regulations
- Complex and Proscribed Procedures



Credit photo: Armel Nganzi.

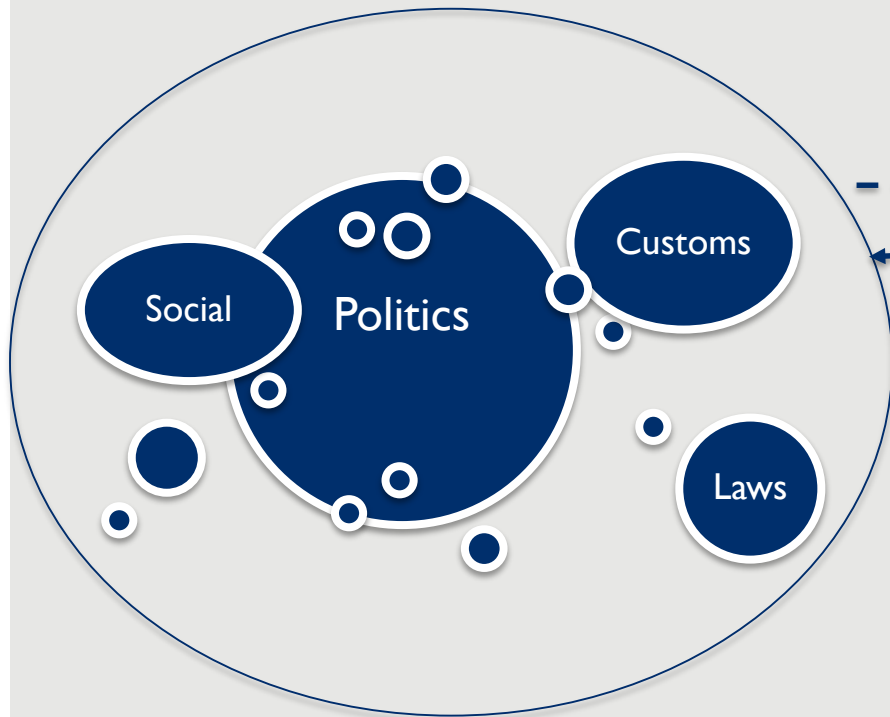


# BWENGE BUCHIZA Pilot

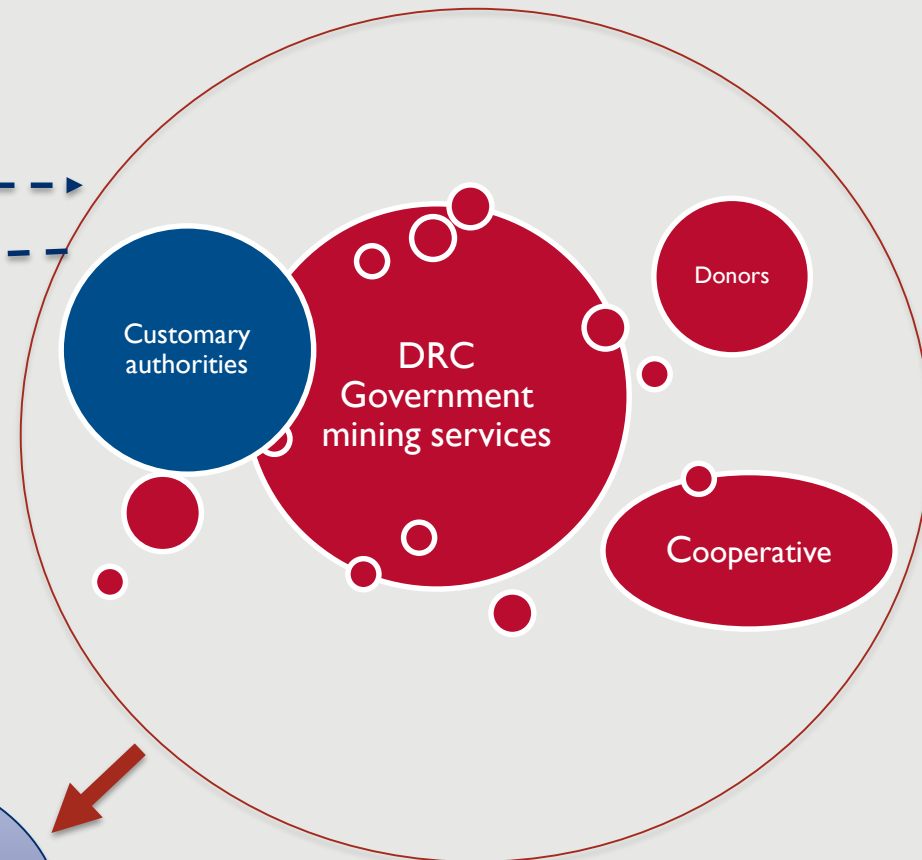


# Institutions and Actors in the Formalization of the Artisanal Mining Sector

## Context



## Actors



# Role of Customary Authorities in Governance of Natural Resources

- ✓ Responsible for land management
- ✓ Attributes land to people
- ✓ Resolves land disputes
- ✓ Collects taxes on land and other natural resources
- ✓ Controls access to land and use of resources.





# Impacts of Customary Authority on ASM Formalization

Impacts	Benefits	Risk/Challenges
<b>Access</b>	Full access to site by cooperative (which is managed by Mwami's wife); no permit required	Gaining access
<b>Tenure</b>	More security for the cooperative and miners as they are protected by Mwami. Authorities have power to govern a vested in them by subjects.	Power rests with Mwami; who can withdraw rights at any time. However, authority of Mwami is easily confused or blurred with role of cooperatives.
<b>Participation</b>	Ensures that people are engaged	Fear-based participation
<b>Legality</b>	Increase willingness to participate in state formalization if Mwami is supportive of process	High costs of administrative compliance for ASM sector

# The Authority of the Mwami

*“Whatever he asks us to pay we are willing to, because the hill is for the Mwami”*

*- Miners working on Nyamurhale site, August 2017*



# Tax Burdens of the “Customary” and Statutory Regimes on the ASM Sector

Formal state taxes	Customary/Informal taxes
<ul style="list-style-type: none"><li>• Costs of Miner Cards</li><li>• Costs of Identification sheets</li><li>• Equipment taxes</li><li>• Mining extension technical service fees</li><li>• Cooperative fees</li></ul>	<ul style="list-style-type: none"><li>• Fees for right to mine</li><li>• Production taxes (20% of value of sale value)</li><li>• Customary fees for Mwami</li><li>• Customary fees for the land owner (clan/lineage)</li></ul>





# **Recommendations from “Golden Knowledge” Gained from the NGWESHE Field Experience**

## ***Recommendations to the Government of the Democratic Republic of Congo***

1. Harmonize the laws governing customary and states taxes in order to reduce the tax burden on the artisanal mining sector
2. Require an agreement with the customary authorities before authorization of artisanal mining activities. Customary authorities possess considerable power.
3. Promote land policy reforms to account for customary tenure and their buy facilitating economic development and long-term peace in Eastern DRC.

## ***Recommendations for Partners Supporting Formalization of the ASM Sector***

1. Build strong relationships with customary authorities to obtain a social license to operate programs and power. Otherwise, these authorities will block initiatives.
2. Invest resources and time to understand the nuanced powers and roles of customary authorities in governing the artisanal mining sector
3. Carefully consider whether or how to include powerful parties (e.g. Wife of Mwami in the cooperative) in beneficiary selection during project design and implementation



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