



Kilwa Massacre: Timeline of Key Events 1998 to 2010

1998	Anvil Mining Congo SARL holds title to the Dikulushi Mine and surrounding exploration tenements in Katanga province, Democratic Republic of Congo (DRC), through a Mining Convention ("Dikulushi Mining Convention") signed on January 31, 1998 with the Government of the DRC and latterly ratified by Presidential Decree issued on February 27, 1998. ¹
January 8 2004	Anvil Mining Limited (Anvil) is incorporated in the Northwest Territories, Canada, initially under the name Dikulushi Resources Limited ² and is listed on both the Toronto Stock Exchange and the Australian Stock Exchange.
September 2004	The Board of Directors of the World Bank's Multilateral Investment Guarantee Agency (MIGA) approves a political risk guarantee for the Dikulushi mine in Katanga, Democratic Republic of Congo (DRC). ³ When asked by MIGA as to its compliance with the Voluntary Principles for Security and Human Rights, ⁴ Anvil Mining confirms that there were no statements in the Voluntary Principles " <i>that are at odds with Anvil's modus operandi.</i> " ⁵
October 14 2004	An unknown and poorly equipped group of rebels briefly occupies the small town of Kilwa, the point of export for minerals from the Dikulushi mine located 50 kilometres away. When the group arrives at Kilwa, Anvil Mining's security personnel have discussions with the rebel leader who tells them that the group has no intention of taking over the Dikulushi mine. ⁶ Despite the reassurances from the rebels, on the afternoon of 14 October 2004, Anvil stops its mining operations and decides to start evacuating its expatriate personnel. 25 staff are evacuated from the Dikulushi mine on Anvil's charter plane via the airport at Dubie. ⁷ Anvil is vague about when precisely the military flies in from Lubumbashi. ⁸ Anvil sends trucks to collect soldiers from the 62 nd Brigade of the Congolese Armed Forces, <i>Forces armées de la République démocratique du Congo</i> (FARDC), from the garrison town of Pweto, 175 kilometres away. ⁹
October 15 - 18 2004	On October 15, under the control of Colonel Llunga Ademar ¹⁰ , soldiers of the 62 nd Brigade arrive outside Kilwa. ¹¹ No warning is given to the civilian population about the imminent attack. Most of Kilwa's population flee when it is announced over the radio that troops being sent to the town would show no mercy and that anyone who remained would be treated as an insurgent. Many civilians are left behind. ¹² That same day Anvil issues a press release stating that: "...some local conflict appeared in the village of Kilwa located 54 kilometers south of the Dikulushi Mine. The conflict has not moved towards the Dikulushi Mine" and that it "...expects the situation to be resolved within the next 72 hours." ¹³ 50 additional Anvil staff are evacuated from the Dikulushi mine. ¹⁴

October 15 - 18 2004 continued...	<p>Under the command of Colonel Ilunga Ademar, FARDC bombs and occupies Kilwa within two hours. Some insurgents are captured or killed and a large number of civilians are detained. There is no resistance and FARDC suffers no casualties.¹⁵</p> <p>Remaining civilians, mostly men and boys, are rounded up by soldiers and accused of supporting the rebels¹⁶. Soldiers loot property and carry out other serious human rights violations including summary executions, sexual violence, torture, arbitrary detentions, pillage and extortion.¹⁷</p> <p>Anvil vehicles allegedly continue to be used by soldiers who drive around in four company vehicles, three driven by Anvil drivers.¹⁸</p> <p>On the nights of 15 and 16 October, groups of detainees are removed from the Hotel Kabyata (a makeshift prison) and allegedly driven in Anvil vehicles three kilometres to the town of Nselse, where they are summarily executed and their bodies dumped in ditches on the side of the road.¹⁹</p>
October 2004	<p>Colonel Ademar stays in Kilwa for two weeks and lodges in Anvil's guest house "a week after Kilwa was retaken".²⁰ Throughout this period, Anvil continues to provide the Colonel with a vehicle and driver. The soldiers remain for nine months. The bereaved families are not allowed to mourn in public, hold wakes or remove the bodies for a proper burial.²¹</p>
November 10 2004	<p>MONUC (United Nations Organization Mission in the Democratic Republic of Congo) submits a report of its investigation into the incident to the Congolese Government. It details the human rights allegations. It states that 100 civilian deaths are estimated as a direct result of military action and that 26 were the victims of summary execution.²²</p>
January 2005	<p>Congolese non-governmental organization (NGO) ASADHO/Katanga publishes a report on the incident which is widely disseminated.²³</p>
January 29 2005	<p>Anvil Mining's quarterly report refers to the Kilwa incident, stating that "the government and military response on both provincial and national levels was rapid and supportive of the prompt resumption of operations".</p> <p>The report makes no reference to the FARDC's requisition of Anvil Mining's vehicles.²⁴</p>
February 28 2005	<p>Congolese NGO ACIDH writes to Anvil detailing how the use of the company's vehicles facilitated human rights violations by the Congolese army.²⁵ Anvil does not respond to ACIDH.²⁶</p>
April 2005	<p>Contracts of Guarantee are issued by MIGA providing \$13.3 million of political risk insurance, including cover against damage resulting from war and civil disturbance. MIGA assigns these risks "a high rating."²⁷</p>
June 5 2005	<p>The Australian Broadcasting Corporation 'Four Corners' screens a documentary "The Kilwa Incident", in which Bill Turner, Anvil's CEO, admits that it provided logistical support to the Congolese army including lorries and seats on its leased airplane. MONUC also reports that the military had use of the company's vehicles, drivers and guest house and that they were given food and money.²⁸ Turner makes no reference to a requisition order.²⁹</p>

June 29 2005	Colonel Ilunga Ademar is arrested in Lubumbashi in connection with arms trafficking and other offences unrelated to the Kilwa incident.
July 1 2005	ASADHO/Katanga issues a press release calling for the prosecution of Colonel Ilunga Ademar in relation to the FARDC operation in Kilwa and for Anvil Mining's role in the events to be investigated. ³⁰
July 13 2005	Colonel Ilunga Ademar is charged with committing war crimes and other crimes during the October 2004 military operation in Kilwa.
July 25 2005	President of the World Bank Group, in response to a letter from RAID, requests the Compliance Advisor Ombudsman (CAO, an independent recourse mechanism) to audit MIGA's due diligence of the Dikulushi project. ³¹
August 24-25 2005	<p>RAID and Congolese NGOs visit the Dikulushi mine.</p> <p>Anvil Mining gives RAID a copy of a letter from the then Governor of Katanga, Urbain Kisula Ngoy, addressed to the company's General Manager, dated 11 June 2005. The letter, dated eight months after the events, states that Pierre Mercier received a requisition request from the Governor to assist the FARDC with logistical support in October 2004.³²</p> <p>The driver of an Anvil Mining vehicle tells RAID that he had been deployed to drive the FARDC at the time of the Kilwa incident.³³</p>
January 2006	The military prosecutor identifies 12 soldiers suspected of complicity in the crimes committed in Kilwa, but receives no assistance following his request to the Commander of the Military Region of Katanga to facilitate their arrests. ³⁴
February 2006	The World Bank's CAO publishes its report into the Dikulushi mine and concludes " <i>Neither Anvil nor MIGA sought to investigate the human rights record of the military and police detachments deployed at the site and in the wider area, as required by the provisions of the Voluntary Principles.</i> " ³⁵
August 2006	Seven soldiers are arrested in connection with the Kilwa events and transferred to Lubumbashi to await trial before the Congolese Military Court.
October 12 2006	<p>Colonel Ademar, the seven soldiers arrested in August and one soldier tried <i>in absentia</i> are accused of war crimes by the military prosecutor (the charges invoke Article 8 of the Rome Statute and Articles 173 and 174 of the Code of Military Justice). Charges include arbitrary detention, torture and murder.</p> <p>Anvil's former General Manager in the DRC, Canadian Pierre Mercier, and two other expatriate Anvil employees are charged with aiding and abetting the FARDC in the commission of the crimes. In particular they are accused of having "voluntarily failed to withdraw the vehicles placed at the disposal of the 62nd Brigade in the context of the counter-offensive of [15-18] October 2004 to recapture the town of Kilwa" and of having "knowingly facilitated the commission of war crimes by Ilunga Ademar and his men".³⁶</p> <p>In a public reaction, Anvil states that "the allegations against Anvil Mining Congo Sarl and the above mentioned persons are unfounded and without merit."³⁷</p>

December 12 2006	The trial opens before the Military Court of Katanga in Lubumbashi. In the coming weeks, statements are received from a number of victims and key witnesses from Kilwa. In addition, statements taken under oath are provided by military defendants.
December 27 2006	During the hearing, the military prosecutor, in response to a question from Anvil Mining's lawyer, clarifies that it is Anvil Mining's agents who have been charged and not the company Anvil Mining. However if the Anvil employees were found guilty then the company as a "moral person" would be liable to pay compensation. ³⁸ Lawyers for the Anvil Mining employees enter objections to the legality of the summons. Pierre Mercier, who had returned to Canada, requests that he be exempted from appearing in person. His request is refused. ³⁹
February 28 2007	The military prosecutor, who conducted the investigation, is transferred to another jurisdiction, despite warnings from MONUC and NGOs that removing the prosecutor at this stage in the trial would be extremely disruptive. ⁴⁰ The trial is adjourned.
May 14-16 2007	The military trial in Lubumbashi resumes with a different military prosecutor. Pierre Mercier appears in court for the first time. Many of the military defendants deny the accusations concerning summary executions and reject the signed statements that they had given to the previous military prosecutor. Neither the defendants nor their lawyers allege that their earlier statements had been extracted under duress. In their earlier statements to the prosecutor, several soldiers admit that they had been given orders by Colonel Ademar to shoot suspected rebels. A few stated that Colonel Ademar had also ordered the execution of civilians arbitrarily detained in Kilwa and at Pweto.
May 16 2007	The newly appointed military prosecutor does not ask any questions or challenge changes in the defendants' statements about the alleged requisition. ⁴¹ Pierre Mercier states that he had arrived in Kilwa on the morning of 16 October 2004 at about 9am, staying there for the day, accompanying senior Congolese political figures. He claims that he was not told about the massacre. ⁴²
May 24-27 2007	A mobile court hearing takes place in Kilwa. The lawyers representing the victims, fearing for their personal security, are absent as are Congolese NGOs. RAID is prevented from observing the hearings. Prosecution witnesses give evidence about the executions. One witness states that he had been arrested and taken to be executed. He alleges that about 15 people were transported in a jeep belonging to Anvil Mining and driven by an Anvil driver. ⁴³ The two Anvil Mining employees are cross-examined and questioned about the circumstances in which the vehicles and two motorcycles belonging to Anvil Mining were used by the FARDC to transport looted goods.

June 6-19 2007	<p>The Military Court reconvenes in Lubumbashi. Testimonies are given before the court. A police officer recounts the details of his detention and severe torture over three days by the FARDC. The police officer states that on two occasions, while he was detained, Colonel Ademar came and took some of the detainees away to an unknown destination using Anvil Mining vehicles.</p> <p>The wife of the police officer states that their daughter had died after being raped and sexually abused by Colonel Ademar's men.</p> <p>The parents of two young men tell the court how their sons were killed by the FARDC.</p> <p>The military prosecutor concludes that there is insufficient evidence to establish that Anvil Mining or its employees had participated in war crimes, so recommends that the three Anvil Mining employees be acquitted of the charge of complicity in war crimes in the absence of the element of intent.⁴⁴</p>
June 28 2007	<p>The Military Court, in its verbal judgment, finds all the defendants not guilty of war crimes or other crimes in relation to the Kilwa incident.</p> <p>It takes the view that no summary executions had occurred in Kilwa, but that people had been killed during "fierce" fighting between the rebels and the FARDC.</p> <p>Throughout the verdict, the court seeks to dismiss or discredit the evidence of victims and their relatives.⁴⁵</p>
July 4 2007	<p>A public statement is made by Louise Arbour, UN High Commissioner for Human Rights: "I am concerned at the court's conclusions that the events in Kilwa were the accidental results of fighting, despite the presence at the trial of substantial eye-witness testimony and material evidence pointing to the commission of serious and deliberate human rights violations".⁴⁶</p>
February 2008	<p>The victims and their families are denied the right to appeal. The appeal court reduces the sentences of Colonel Ademar and Captain Sadiaka to five years. Both are reinstated into the FARDC.</p>
April 2008	<p>Moise Katumbi, Governor of Katanga, prevents lawyers and NGOs from visiting families of victims in Kilwa.⁴⁷ They subsequently receive threatening phone calls and death threats.⁴⁸</p>
November 2010	<p>Application for Class Action made in the Quebec Court on behalf of the Kilwa victims. The application for class action calls for compensation from Anvil Mining and alleges that the company, by providing logistical assistance, played a role in human rights abuses, including the massacre by the Congolese military of more than 70 people in the Democratic Republic of Congo in 2004.</p> <p>Anvil Mining has denied any allegations of wrongdoing and asserts that its logistical support was requisitioned by the authorities.⁴⁹</p>

References

Full references for the facts contained above are found in: "Kilwa Trial: a Denial of Justice, A Chronology, October 2004 – July 2007", RAID et al., 17 July 2007, available at www.raid-uk.org/work/anvil_dikulushi and www.globalwitness.org/media_library.

¹ Anvil Mining Limited factsheet on Dikulushi mine, dated September 2006 at <http://www.anvilmining.com/files/200609-factsheet-dikulushi.pdf>

² Anvil Mining Limited, Annual Information Form for Financial Year ended December 31, 2004, p.4. The Corporation changed its name to Anvil Mining Limited on March 12, 2004.

³ Between June and September 2004 RAID, Environmental Defense, the Bank Information Centre and Congolese NGOs, ACIDH and NDS, wrote to MIGA and had several meetings with MIGA staff in Washington in which they raised their concerns, including security, about the Dikulushi project.

⁴ The *Voluntary Principles* require, *inter alia*, that a company consider the available human rights records of public security forces, paramilitaries, local and national law enforcement, as well as the reputation of private security. The company is also required to assess the capability of its public or private security providers to respond to situations of violence in a lawful manner (i.e., consistent with applicable international standards). It calls for companies to develop appropriate measures in operating environments.

⁵ World Bank Group's Compliance Advisor Ombudsman, 'CAO Audit of MIGA's Due Diligence of the Dikulushi Copper-Silver Mining Project in The Democratic Republic of the Congo, Final Report', November 2005, paragraph 3.3.3.

⁶ Anvil Mining Limited news release, 'Advice on rebel activity in village of Kilwa, DRC', 15 October 2004, at <http://www.anvilmining.com/go/news>.

⁷ Anvil Mining Limited news release, 'Advice on rebel activity in village of Kilwa, DRC', 15 October 2004; Transcript of Pierre Mercier's Statement to the Prosecutor, 13 October 2006 (original French) see *Kilwa: a Denial of Justice* p. 25

⁸ Transcript of Pierre Mercier's Statement to the Prosecutor 13 October 2006 (original French) see *Kilwa: a Denial of Justice*. Also, Anvil CEO Bill Turner's interview with Australian Broadcasting Corporation's 'Four Corners', 2005, full transcript: 'I think they [FARDC soldiers] were flown in on the back-loading, when the plane went up there to get our people, the plane would have had soldiers on, we took our people out.'; Four Corners taped interview with Bill Turner, full transcript, p.50.

⁹ ACIDH/RAID Joint report, "Kilwa: A Year After the Massacre of October 2004", October 2005. See Colonel Ademar Illunga's Statement to the Prosecutor on 5 July 2007 quoted in *Kilwa Trial: a Denial of Justice* (Original French) . Bill Turner also told ABC Four Corners 'I think they [FARDC soldiers] were flown in on the back-loading, when the plane went up there to get our people, the plane would have had soldiers on, we took our people out.' Anvil later produced a letter signed by the Governor of Katanga dated 2005 claiming that the logistical support had been requisitioned.

¹⁰ Different documents use different spellings for Colonel Illunga Ademar's name: some refer to him as Ademar, others as Ademard or Ademars.

¹¹ MONUC (United Nations Mission in the Democratic Republic of Congo) Special Investigations Report dated 10 November 2004 (translated into English by RAID/Global Witness) (hereinafter MONUC report). The final report was released in September 2005.

¹² Two Kilwa radio operators have confirmed this information saying that they heard the message from Colonel Ademar being transmitted while in the bush. (ACIDH/RAID Joint report, "Kilwa A Year After the Massacre of October 2004", October 2005). Many witnesses later stated in court that they had fled out of fear of reprisals by the FARDC.

¹³ Anvil Mining Limited news release, 'Advice on rebel activity in village of Kilwa, DRC', 15 October 2004.

¹⁴ Anvil Mining Limited news release, 'Advice on rebel activity in village of Kilwa, DRC', 15 October 2004.

¹⁵ MONUC report

¹⁶ RAID interviews with former detainees

¹⁷ MONUC report, paragraph 36.

¹⁸ MONUC report, paragraph 36.

¹⁹ MONUC report: "Anvil Mining has confirmed to MONUC that the FARDC used its vehicles, but has denied that they were used to transport corpses or looted goods." Anvil CEO Bill Turner, in his interview with Australian Broadcasting Corporation's 'Four Corners' in 2005, denied that he had any knowledge of human rights violations. Pierre Mercier, General Manager of Anvil at that time, stated in a response to a question posed by the Congolese Military Prosecutor that he had no knowledge of Anvil vehicles being used to transport civilians to execution.

²⁰ Official statement to the Congolese Military Prosecutor, 2005.

²¹ RAID interviews in Dikulushi, Nsensese and Kilwa August 2005

²² MONUC report.

²³ ASADHO/Katanga, "Report on human rights violations committed in Kilwa in the month of October 2004", January 2005.

²⁴ Anvil Mining Limited, 'Report for Quarter ended December 31 2004'.

²⁵ Letter from Hubert Tshiswaka, Executive Director of ACIDH, to General Manager of Anvil Mining Limited, and press release: "Communiqué de presse no.005/ACIDH/02/05: ACIDH invite Anvil Mining Ltd à s'abstenir de faciliter les violations des Droits humains et l'intimidation de leurs défenseurs" (ACIDH asks Anvil Mining Ltd to abstain from facilitating human rights violations and intimidation of activists), 28 February 2005.

²⁶ Confirmed by Bill Turner, CEO of Anvil Mining, to RAID.

²⁷ CAO Audit, Paragraph 3.1.2.

²⁸ MONUC report.

²⁹ *Four Corners* taped interview with Bill Turner, full transcript, May 2005. A shortened version was broadcast by ABC on 5 June 2005.

³⁰ ASADHO/Katanga, 'Les crimes de guerre de Kilwa doivent être punis', Press release, 1 July 2005.

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- ³¹ CAO Audit, Executive Summary p. (i)
- ³² Letter No 10/0844/CAB/GP/KAT2005 from Urbain Kisula Ngoy, Governor of Katanga, to Anvil's General Manager, Lubumbashi, dated 11 June 2005. Both the French original and an English translation of this letter are posted on Anvil Mining's website <http://www.anvilmining.com>.
- ³³ RAID, 'Report of a Visit to the Dikulushi Mine and Kilwa, 24-25 August 2005', 5 October 2005.
- ³⁴ RAID interview with Colonel Eddy Nzabi Mbombo, military prosecutor in Lubumbashi, February 2006.
- ³⁵ Compliance Advisor Ombudsman, 'CAO Audit of MIGA's Due Diligence of the Dikulushi Copper-Silver Mining Project in The Democratic Republic of the Congo, Final Report', November 2005, p.20.
- ³⁶ Décision de renvoi, Colonel Magistrat Eddy Nzabi Mbombo, Auditeur Militaire Supérieur près la Cour Militaire du Katanga, 12 October 2006.
- ³⁷ Anvil Mining Limited news release, "Anvil Mining Congo receives notification from Congolese Military Court in relation to the Kilwa incident in October 2004", October 18, 2006.
- ³⁸ RAID et al., Audience de la Cour Militaire du Katanga dans l'affaire Ministère Public et Parties Civiles Contre Colonel Adémar ILUNGA et Consorts – Rôle Pénal 010/2006/ RMP 0065/2005, Legal Update No 2.
- ³⁹ RAID et al Legal update No 2
- ⁴⁰ Global Witness et al., 'Human Rights Groups Denounce Obstruction of Justice Following Transfer of Kilwa Trial's Military Prosecutor', Press release, 12 March 2007.
- ⁴¹ Details found at RAID et al., "Kilwa trial: a Denial of Justice, A Chronology", October 2004-July 2005 pp.20-21.
- ⁴² MONUC trial observation report; Transcript of official statement by Pierre Mercier to the Prosecutor, question 10 and response 10, 13 October 2006.
- ⁴³ Statement of survivor to Prosecutor, dated 13 October 2005.
- ⁴⁴ MONUC Lubumbashi, Human Rights Division, Daily Report, 14 June 2007.
- ⁴⁵ Transcript of an audio recording by Radio Okapi of the judgment in the Kilwa trial, as read out in court on 28 June 2007 (English translation by RAID/Global Witness): « Le Président de la République ordonna au Commandant de la 6eme Région Militaire de tout faire pour reprendre Kilwa dans 48 heures. »
- ⁴⁶ Office of the High Commissioner for Human Rights, 'High Commissioner for Human Rights Concerned at Kilwa Military Trial in the Democratic Republic of the Congo,' 4 July 2007, available at: <http://www.unhchr.ch/hurricane/nst/view01/9828B052BBC32B08C125730E004019C4?opendocument>.
- ⁴⁷ ACIDH, ASADHO, Global Witness and RAID, "Human rights defenders prevented from meeting victims of Kilwa massacre", 3 April 2008.
- ⁴⁸ Amnesty International Urgent Action (AI Index: AFR 62/002/2008) UA 89/08, "Death threats/ Fear for safety", 4 April 2008.
- ⁴⁹ Anvil Mining admits having given "logistical support" in the form of the use of its chartered planes, vehicles and drivers to enable the military to gain access to Kilwa to quell a minor uprising that occurred in October 2004. In 2005 Anvil stated that it was compelled to provide this assistance. In June 2007 Anvil Mining's employees and nine Congolese soldiers were found not guilty of war crimes or other crimes relating to the incident. The Congolese military court accepted Anvil Mining's defence that it had acted in the framework of a requisition from the Governor of Katanga.