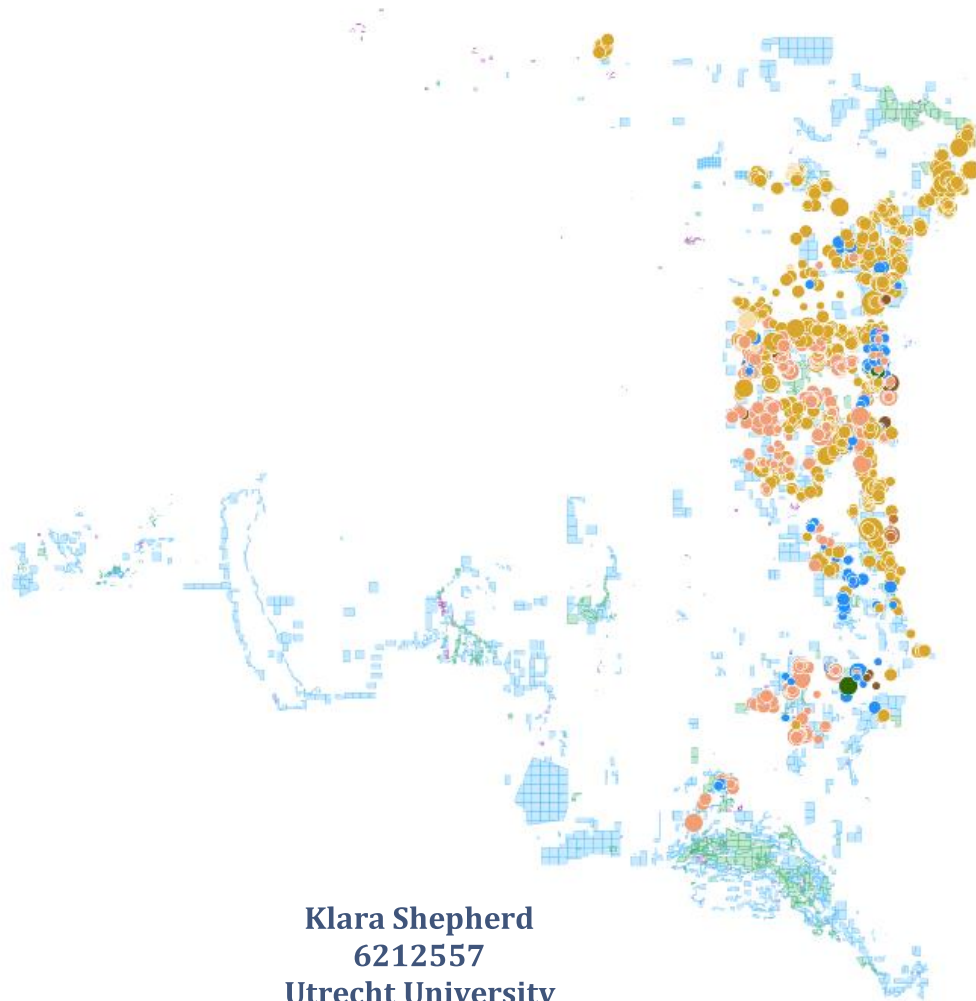


2018

Regimes of Extraction:

**COMPETING LEGITIMACIES & RESOURCE
GOVERNANCE IN THE EASTERN DRC**



**Klara Shepherd
6212557
Utrecht University
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and Human Rights

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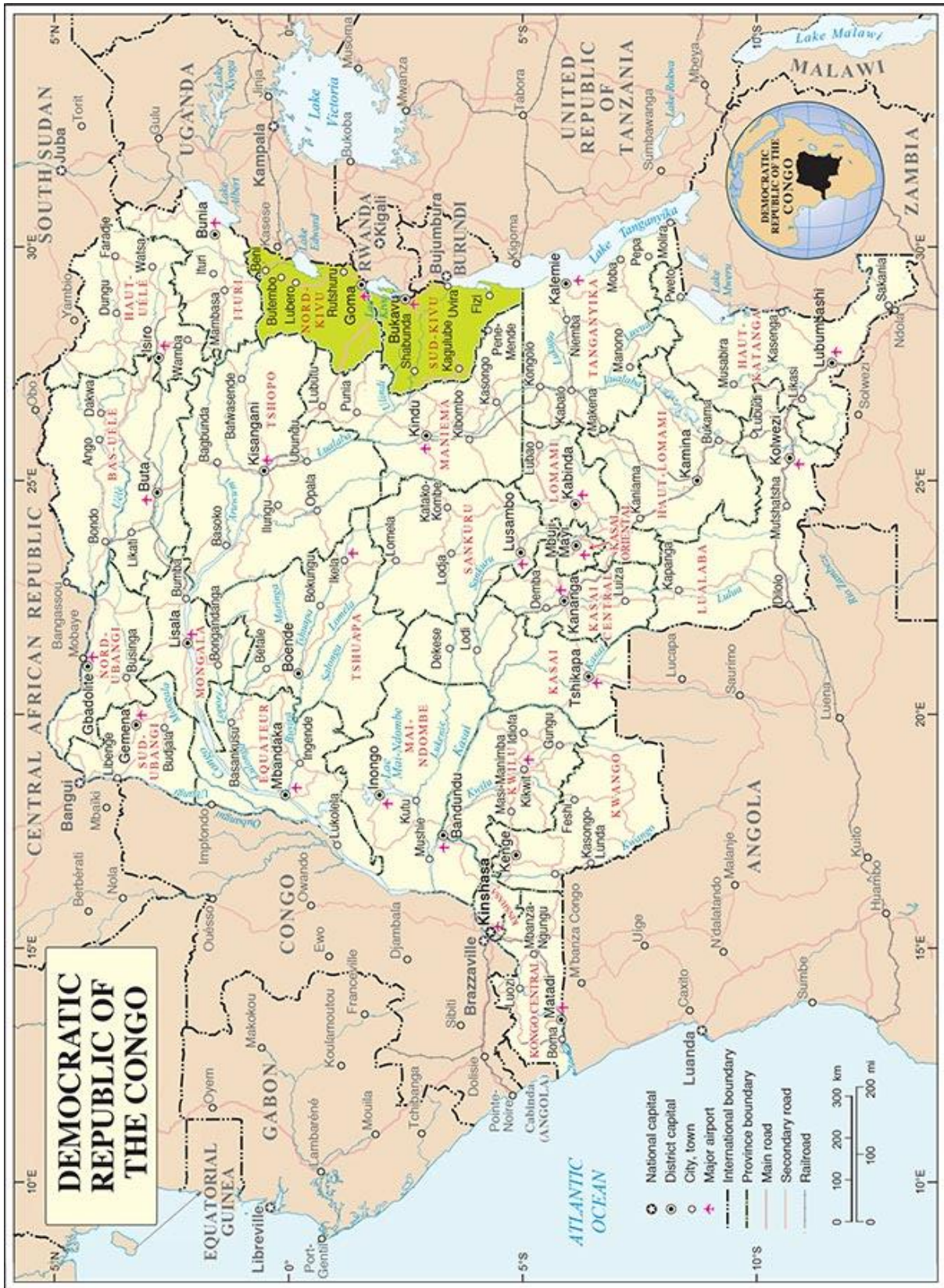


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Summary

In this thesis I look at the mining industry in the eastern DRC as a unique context of resource governance and I introduce a new actor in the contestation of power and legitimacy which I claim sustains the current extractive regime. In a context of conflict and failing state legitimacy, there are multinational corporations which function as governing actors both beyond and in conjunction with the state, this is motivated by profit and results in exploitative behavior. I have concluded that there is both a missing link between hybrid governance debates and debates on the resource curse. I illustrate how multinationals are involved in and profit from the context of insecurity and their role in hybrid or proxy governance taken on in spatially removed zones of extraction by analyzing existing debates and reflecting on three primary case studies. Tracing the historical roots of extractive governance and conducting interviews I have found that multinationals are participants in governance practices and subject to analysis on several levels – there is a temporal analysis which illustrates the continuities between colonial regimes of extraction and those of today and there is a spatial level of analysis which can be illustrated by the monopolized control of pockets of resource wealth and the archipelization of the Congolese state. Through reconceptualizing multinational corporations as important and exploitative stakeholders in extractive governance, I hope to broaden the current understanding of who is involved in regimes of extractive governance and delve deeper into how these regimes are legitimized locally through engrained mechanisms of exploitation and internationally through consumption. In doing this, I seek to connect zones of productivity to zones of consumption. Without broader awareness of these complex issues, consumers are actively involved in the continued exploitation of resources in the DRC and beyond.



Lyall 2017 UN Map¹

¹ Lyall, "Rebellion and Conflict Minerals in North Kivu."

Acronyms

ABIR	Anglo-Belgian India-Rubber Company
ABM	Alphamin Bisie Mine
ADFL	Alliance des Forces Démocratiques pour la Libération du Congo
ASM	artisanal and small-scale mining
ANC	Armée Nationale Congolaise
APCLS	Patriots' Alliance for a Free and Sovereign Congo
CaMi	Cadastre Minier
CAR	Central African Republic
CFS	Congo Free State
CIA	Central Intelligence Agency
CRA	Congo Reform Association
DRC	Democratic Republic of the Congo
EBITDA	Earnings before Interest, Taxes, Depreciation and Amortization
EITI	Extractive Industries Transparency Initiative
FARDC	Forces Armées de la République Démocratique du Congo
FAC	Forces Armées Congolaises
FDLR	Forces Démocratiques de Libération du Rwanda
GDP	Gross Domestic Product
ICMM	International Council on Mining and Metals
IDP	Internally Displaced Person
IFIs	International Financial Institutions
ILO	International Labor Organization
IMF	International Monetary Fund
IPIS	International Peace Information Service
LRA	Lord's Resistance Army
LSM	large-scale mining
MNCs	Multinational Corporations (referring here to mining corporations)
NCPs	OECD National Contact Points
NGO	Non-Governmental Organization
NRGI	Natural Resource Governance Institute
ODV	Opération Départ Volontaire
OECD	Organization for Economic Cooperation and Development
OKIMO	L'Office des Mines d'Or de Kilo-Moto
PSC	Private Security Company
PNC	Police Nationale Congolaise
PWYP	Publish What You Pay
RCD	Rassemblement Congolais pour la Démocratie
RDC	République Démocratique du Congo (see DRC)
RMI	Responsible Minerals Initiative
RPA	Rwandan Patriotic Army
RPF	Rwanda Patriotic Front
SOKIMO	Société Minière de Kilo-Moto
SOMINKI	Société Minière et Industrielle du Kivu
UMHK	Union Minière du Haut Katanga
UN	United Nations
US	United States

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1 INTRODUCTION

In this thesis I will look at the actors involved in hybrid governance around several points of resource wealth in the eastern Democratic Republic of the Congo (DRC). Using various levels of analysis such as regulatory framework, historical trends and an expose of social and security governance, I attempt to broaden our conceptual understanding of who is involved in resource governance and what legitimizes this involvement. Looking into the sphere of resource governance in complex environments is a daunting task because of the many complications, but essential to developing sustainable supply chains. The dominant narratives on the conflict in the DRC are often too simplistic and with their simplicity they obscure a broad understanding of the situation and thus not only fail to improve it, but sometimes make it worse.² At the intersection of post-conflict politics, public authority paradigms and international regulation in pockets of immense resource wealth, we can see a complexly negotiated regime. In a country with a traumatic history of resource pillage, there are many factors to consider in unraveling a complex truth of the allocation and extraction of mineral wealth. Therefore, I will examine the nature and history of extractive governance regimes in the DRC and the negotiation of power and legitimacy which sustain them in this unique context of insecurity.

In this context, I seek to understand how multinational corporations (MNCs) fit within extractive governance regimes in the eastern DRC. The protracted contemporary conflict of the late 1990's and early 2000's (which in many respects continues today) has been the topic of much academic debate. As a test of liberal peacebuilding, many failures of this model have been identified and the dynamics of the conflict itself have been explored.³ With the failure of international intervention in state-building and post-conflict initiatives, focus has shifted to local mechanisms for transformative rebuilding of a state that has never, in its short postcolonial history, hosted particularly strong or resilient central governance.⁴ As Niamh Gaynor notes, there is a lack of knowledge on the function and efficacy of local institutions, or the popular legitimacy of their governance. Several case studies have been made on the legitimacy of local governance in *Bas-Congo*,⁵ but when looking at the resource rich regions, it is important to include MNCs in the governing actors. Similar questions can be asked about the legitimacy, efficacy and impact of the governance of these corporations in these particular zones.

Drawing on empirical evidence from various regions in the eastern DRC as well as the theoretical debate on the 'state of the state' and regulative infrastructure, a theme emerges where relics of extractive colonial governance are revitalized in modern extractive regimes. Negotiating access to resources is not a new phenomenon and the role of the state, international actors and corporations continues to evolve on an ongoing basis. I want to contextualize resource governance in the DRC within the larger debate on state building, public authority and development because they are interconnected and mutually inclusive. Development policies of the international community – donor governments and multinational aid groups – weigh heavily on the importance of willing and effective state institutions in the planning and application of their policy. In a context where there are a multitude of actors competing for legitimacy and control, there is the need to understand not just the 'weak and failing states' argument of the neoliberal governance paradigm, but also the notion of hybridity of political actors,⁶ and assemblages of security.⁷ Denis Tull describes the situation in the eastern province of North Kivu as the state entering into a period of 'functional or even institutional decline' in which various

² Autesserre, "The Trouble with Congo," 209.

³ Gaynor, "Poverty amid Plenty"; Tull, "A Reconfiguration of Political Order?"; Autesserre, "The Trouble with Congo."

⁴ Meagher, "The Strength of Weak States?"

⁵ Bas-Congo is referring to a region in Western DRC in Gaynor, "Poverty amid Plenty"; Tull, "Troubled State-Building in the DR Congo."

⁶ Boege, Brown, and Clements, "Hybrid Political Orders, Not Fragile States."

⁷ Schouten, "Extractive Orders: A Political Geography of Public Authority in Ituri, DR Congo," 3.

actors including the remaining state components, NGO's, church groups, emerging social, political or military non-state actors and state like actors such as rebel groups 'will engage in a struggle over public space.'⁸ One of the actors whose role is neglected, but which certainly has a financial interest in in this struggle are the MNCs which have consistently profited from the DRC's immense resource wealth. Often operating in a vacuum of governance, these corporations fulfill state like functions and successfully negotiate a certain degree of legitimacy for their role and profitability both in the communities where they operate and abroad. Other actors actively involved in and profiting from these negotiations of access to wealth are the political elite in Kinshasa and key connections such as Dan Gertler who have been involved for some time in the allocation and extraction of resources. Kate Meagher brings an interesting element to discussion beyond the reconceptualization of 'weak states' in that she discusses the reallocation of power through the control of resources and introduces a spatial element⁹ – the central state and peripheral resources play a key part of my discussion here.

In the intersection of ample literature on the Congolese state, development and the role and catalyst of natural resources in conflict and insecurity, I will investigate one actor in particular – the international corporation, in its role, through time, in societies which are heavily affected by the presence of natural resources. From a contemporary perspective, I will focus on the North and South Kivu and Ituri provinces, defined by protracted conflict and weak state institutions, where a multitude of non-state actors compete for resources and legitimacy. Historically, I will focus on the eastern region of the DRC generally since the limited sources on colonial era resource governance make the subject more difficult to study. While the south-east region of Katanga has always been important because of the resources, actors involved and relative stability, it has hosted the majority of studies on hybrid and resource governance. So, in order to vary and include a more difficult conflict context, I have veered north to the Kivu provinces which have their own vast wealth and have been the epicenter of conflict throughout recent years. Much of the research on the Kivu provinces has focused on conflict and post conflict development as well as the exploitation of resources by armed groups to finance war– meanwhile the value of the rich deposits of tin, tantalum, tungsten and gold (known as the 3TG's) are seen as a liability, not an opportunity. This is by academia and development workers, but for the companies and individuals buying high-risk but incredibly lucrative mining concessions in the region it has surely resulted in a great opportunity. With a better understanding of the parties profiting from instability, it is hard to ignore the fact that some profit off of the lives and livelihoods of others.

What began as an investigation into an empirical complication of security infrastructure in the DRC mining sector has turned into a historically informed narrative on *poverty amid plenty*¹⁰ and prompted a deep questioning of the willingness of corporations to reconceptualize the DRC as something more than a zone of economic importance. It is a rich and complicated country in need of both knowledge and agency in order to profit economically and socially from the wealth of the land. In such a widely debated topic, it is surprising to find a dearth of literature on the explicit connections between MNCs and hybrid governance. This is one part of the literature which I would like to add to, bringing into account the important work done by several academics on hybrid security governance, I would like to extend their contribution beyond the security sector into a wider variety of governance practices which are filled by MNCs.

As I researched the components of extractive governance, I noticed power, legitimacy and regulation play central roles. In the absence of a strong state and with the many difficulties of a geographically and infrastructurally isolated space in the postcolonial world, it is a matter of constant negotiation for power, influence and right to govern. The actors involved are those

⁸ Tull, "A Reconfiguration of Political Order?," 431–32.

⁹ Meagher, "Smuggling Ideologies: From Criminalization to Hybrid Governance in African Clandestine Economies."

¹⁰ To draw on the title of Gaynor's 2015 article on popular legitimacy in Bas Congo (Western DRC) Gaynor, "Poverty amid Plenty."

expected: armed rebel factions and militias seeking security in a context of nearly constant insecurity and remnants of a state where military and police need to enterprise to be paid a living wage. Then there are NGOs, church groups and humanitarian actors, well-intentioned but distinctly external to the central issues of the region. Most important to my research, I argue multinational mining and prospecting corporations also play a similar role in resource governance. As the themes of extractive governance are revisited from the colonial era, attention should be paid to the motives, legitimacy and efficacy of each actor. The central question in this thesis is: **how are the regimes of extractive governance sustained by a continual negotiation of power and legitimacy by a variety of actors in the geographically isolated pockets of natural resource wealth in the eastern DRC from the colonial era to today?** Throughout the history of the DRC, the regimes and practices of extractive governance centered around sites of resource wealth have remained largely static although the actors involved have changed. The same patterns of external governance, exploitation of human labor, militarization of extraction sites and sovereignty of concession holders are remarkable continuities between the Victorian era and today. Furthermore, it is interesting to question how these extractive governance regimes have become a part of the overall governance of the DRC. Geographically relegated to the periphery of the country, zones of extraction are profitable, but difficult to control through the institutions of the state. Who else is taking on control of resources, and how have they negotiated legitimacy in doing so both at a local and international level?

1.1 Methodology & Constraints

In the context of a conflict studies program, the DRC is a perfect example of the intricacy of a situation that can be so simply labeled a conflict. Colonial history has left a bloody mark on many modern states and the DRC is no exception. Many authors have written about horrors experienced in this vast tract of land - from Joseph Conrad's *The Heart of Darkness* to Adam Hochschild's *King Leopold's Ghost* and Georges Nzongola-Ntalaja's *The Congo: From Leopold to Kabila: A People's History*. The anecdotes of the DRC are everywhere and many in vogue humanitarian causes are based on the atrocities of war and pillage, but few people have deeper understandings of how and why the history of the DRC is so fraught with conflict. As several of my sources have said, there are many contemporary issues such as child labor statistics, blood diamonds or coltan in cell phones, which are simple vignettes of the troubles in the DRC. However, these issues only scratch the surface of a much deeper and longer story of exploitation by both Congolese political elites, the international community and consumers.

The most effective research method would have been conducting numerous in-country interviews with community members, mine workers, NGOs and local political elites. Nearly everyone I spoke to emphasized how, because of the importance of building relationships and earning peoples trust, it is more practical to do field research. As beneficial as in-country research would have been, there are two main reasons why it was not possible: the security situation in the DRC makes it difficult to travel there and especially to the Kivu Provinces and remote mining areas without significant infrastructural help, coming either from a supporting organization or extensive pre-existing knowledge of the workings of the country. Additionally, I had significant ethical considerations in researching and writing about the DRC, as there are ample examples of well-meant words leading to engrained and oversimplified narratives on the conflict. While I hope to represent the viewpoint and issues that I spoke with my informants about, I hope to do so without causing unintentional harm and I felt that, with my limited experience, this was an easier task done remotely.

Online sources and academic articles about the resource curse, war economies and the unique governance assemblages in the DRC led me to the more specific enquiry of this thesis. I conducted my research primarily using NGO and Labor Union reports as well as statistics from the World Bank, Natural Resource Governance Institute (NRGI), International Peace Information

Service (IPIS), the Extractive Industries Transparency Initiative (EITI) and the *Cadastre Minier RDC*¹¹ (CaMi). I included three case studies – one in each of the three provinces I focus on: North Kivu, South Kivu and Ituri – which I hope will illustrate the regimes of extractive governance analyzed throughout this work. Because the research topic started so broad in scope, I relied heavily on interviews with industry and field specialists to narrow my scope and focus my findings. I also included analysis of international and Congolese news stories, the information from mining company’s public webpages, requests for information, comments from the mining companies and a series of one on one informational interviews listed in Annex 1. Many of these interviewees preferred to remain anonymous, thus I have used the information they gave me and the directions they pointed me for guidance and where possible I have corroborated the information with other references, statistics and academic debates. Attached in Annex 2 are the general thematic questions that I brought to these interviews and while the conversation occasionally developed from these questions or was tailored to fit the occupation/organization in question, they provide a reference of the topics covered. I quickly arrived at the thematic topics of social, economic and security impacts of mining corporations, then I had the difficult path of analyzing an infinite amount of data to uncover a gap in the existing literature. I had already researched the idea of hybrid governance and noticed the lack of literature on corporate involvement in hybrid governance around enclaves of extraction. I then explored this idea further in my conversations with several people involved in the debate and found an important and underrepresented sentiment about how extraction is governed on an international level. While I was not able to inquire into this subject as deeply as I wanted, this represents a start and preliminary conclusions of a possibly much larger research project.

Finally, it is important to remember that many of the stories which would have been the most helpful were unreachable by the very fact that the people who could tell them are too consumed by the day to day necessities of survival to be available to contribute their stories. I feel that it is particularly important to have a Congolese voice as this research is about international involvement in a country where I have never set foot, while this did not happen as much as I would have liked, I am very grateful for the valuable input and advice of the people who I was able to speak with.

1.2 Thesis Overview

Over the following four chapters I will contextualize the current state of extractive governance and illustrate the involvement of MNCs in the larger historical narrative of exploitation and profiteering in central Africa. Chapter Two will explore how the history of the extractive industry in the DRC can inform us about the current structures and practices of social, resource and security governance. I will show the involvement of various actors and a brief overview of mining industry in the region more generally. This section questions the historical developments and current situation of the mining industry which make it an important and relevant case in studying hybrid extractive governance. In understanding and coming to terms with a historical perspective, one can see similar manifestations of extractive governance throughout history and the mining industry today is no exception.

Chapter Three will explore the notion of hybrid governance and lacking state legitimacy, particularly in the context of resource wealth and conflict. The regulatory frameworks which govern, or fail to govern, the extraction of minerals from zones of resource wealth will also be explored as key facilitating components of governance and the transfer of power within the extractive sector. Here I seek to understand how and why local and international governance mechanisms enable corporations to be involved in the contestation of legitimacy in zones of extraction. This happens by asking if (il)legitimacy and regulation influence the negotiation of

¹¹ “DRC Mining Cadastre Portal - Supported by Spatial Dimension - Developers of FlexiCadastre.”

resource governance in and around mining concessions in the eastern DRC. Additionally, I will show how control and allocation of resources has a distinctly spatial element and contextualize the DRC as an archipelago state.

Chapter Four and Five use empirically grounded examples of extractive governance by corporations and examine how resource governance more generally crosscuts the social systems of everyday life in zones of extraction. For example, the role of Corporate Social Responsibility (CSR) programs and the infrastructure and governance that is performed within communities. These functions of governance applied by corporations are typically attributed to a well-functioning state. In short, the social impact and performance (or not) of state functions by private actors (in the extractives industry) can be taken as evidence of hybrid governance and a means of control and legitimacy in resource rich areas. Similarly, in chapter five hybrid security governance will be shown to reflect the plurality of actors competing for power and legitimacy in the context of resource governance. As a primary state function, isolating the actors who provide security can show which actors are involved in governance. This scene is complicated as it includes armed state and non-state actors, which each operate for both public and private gain, as well as the security actors hired or colluding with international corporations. Much like contributions to social systems, hybrid security governance by international corporations is a clear way to draw parallels both between historical regimes of governance and between corporate actors taking on and profiting from the performance of state functions in zones of extraction.

Finally, in the conclusion, I would like to revisit the central themes of this thesis and emphasize the importance of a broader understanding of the intricacies of resource governance in the context of poverty, instability and conflict. In looking towards a future of more responsible resource governance, it is important not to forget the zones of extraction which fuel consumption or neglect the humanity of the people living in these areas of resource wealth. It is time to revisit the exploitation of the DRC and plan for the benefits and profit of such resources to extend further than a few key elite figures, MNCs and corrupt businessmen.

2 THE DRC: 133 YEARS OF EXTRACTIVE REGIMES

In studying the modern extractive governance regime in the DRC, it is pivotal to look back at the history of extraction as it sheds light on how engrained exploitation is in the social and political fabric of the country. In this chapter I will first point out what I consider some of the most important stages and themes in the modern history of the DRC. Then, I will introduce the actors of the most recent regime of extraction along with the key resources and cases which illustrate just some of the many complexities of governance, extraction and legitimacy in the contemporary extractive sector. Three case studies will highlight key actors in the mining sector in the North and South Kivu Provinces and Ituri and operationalize the academic debate by illustrating the broader theoretical argument of reconceptualizing MNCs as important and exploitative stakeholders in the hybrid extractive governance of these regions.

2.1 Historical Context

The central African region of the DRC is the host of a long history of resource exploitation. Though there is a much longer history to the people and the land, this story of extraction and exploitation began in 1885 when the Belgian King Leopold II successfully ceded the vast territories of modern day DRC as his own personal and private asset.¹² The regime of extractive governance which was established by King Leopold and prolonged by Mobutu and Kabila is still engrained in the overall structures of governance in the DRC. The actors involved in governing are political leaders, militia groups and, I will argue in this thesis, multinational corporations which, all three, continue to exploit the ongoing fragility of the Congolese state in order to extract the wealth of mineral resources. The extractive history began with ivory and boomed when rubber became a global commodity in the 1890's. King Leopold, who was by then, deep in debt with his 'investments' in the Congo, used the pivotal years between the discovery of the usefulness of rubber and the beginning of the productivity of rubber plantations in Latin America, to amass his fortune and extract as much of the resource as possibly. He used forced labor and abhorrent conditions to facilitate this wave of extraction.¹³ Sadly little changed in practices of resource governance when the Congo changed leadership. The extent of human rights abuses in the rubber industry and the deaths of millions of Congolese during Leopold's years in control of the territory, eventually prompted the first human rights campaign,¹⁴ something now considered universal.¹⁵ Now, with the skyrocketing price of cobalt and the precious time remaining before Canada has competitive cobalt production, there is another rush for a now pivotal resource.

Many of the transitions of ownership of the Congo took place outside of the control of the Congolese people. Thus, the history of governance of the region has followed a pattern of foreign ownership. The Congo Free State (CFS) was governed by Leopold, then passed through treaties and agreements signed in Europe into the Belgian Congo. Now, again, land is being registered as concessions without significant consultation. Mining concessions cover vast tracts of eastern DRC and the inhabitants no longer hold control of the resources under their feet. The system of concession governance can also be traced back to the era of King Leopold, Anglo-Belgian India-Rubber Company (ABIR) and the Compagnie Kasai where just two of the companies with which Leopold shared his monopoly on extraction. They too used militarization and slave labor to maximize their production in order to be sure to make a profit even after sharing their plunder

¹² Nzungola-Ntalaja, *The Congo*, 2.

¹³ Hochschild, *King Leopold's Ghost*, 158–59.

¹⁴ Nzungola-Ntalaja, *The Congo*, 5.

¹⁵ Beginning with the Geneva convention, the idea of universal human rights has slowly taken hold and become a normative principal to fight for, sadly this does not mean that exploitation has stopped, merely that it takes on a different form from King Leopold's Congo "Guiding Principles on Business and Human Rights."

with the Leopoldian State.¹⁶ This is the early iteration of a concession economy which I will relate to mining concessions and extractive governance in 2018, though the actors and the resources have changed, there are similar mechanisms at work. There is also the trend of absentee ownership which we can trace back to Leopold's involvement in the Congo. He ruled the territory absolutely and was the sole benefactor of its wealth (along with his business partners) but he never actually visited the Congo¹⁷ – everything was done from the comfort of his Belgian palace. This is a good first example of indirect or proxy governance, which Jana Hönke argues is still present in the copper mines of Katanga province,¹⁸ and I will illustrate other examples.

The ongoing decolonization process of the DRC can be divided into four stages. The All-African People's Conference held in Accra in 1958 was perhaps a turning point in the colonial life of the DRC, the Kinshasa uprising took place on 4 January 1959 and led to Belgium agreeing to negotiate independence.¹⁹ The first phase was the most optimistic from the date of independence, 30 June 1960 to 17 January 1961 when Lumumba was assassinated. Patrice Lumumba, proponent of PanAfricanism united the Congo and led it away from Belgian rule becoming the first Prime Minister and quickly allying the country with the Soviet Union in the middle of the Cold War. This alliance was short lived as the US soon backed the coup of Mobutu Sese Seko which overthrew Lumumba's government.²⁰ Meanwhile, the second phase was the overthrow of the Lumumba movement and his arrest in September 1960. Amidst several overlapping local struggles, this second phase ended with Mobutu's second coup on 24 November 1965 and the end of any chance of aligning state interest with the interest and needs of the people.²¹ The third phase was the thirty-two year rule of Mobutu and the fourth began with the first Rwandan invasion on 29 October 1996.²² In 1994, a million refugees fled the outbreak of violence in Rwanda²³ which can be seen according to Filip Reyntjens as the catalyst or epicenter of the regional violence which spread out successively from the Rwandan genocide.²⁴ These four phases of decolonization are just the beginning of a difficult path forward in the contested governance of the DRC, I would also contend that decolonization is far from over. Indeed, one way that I mean to show that colonial legacies are still alive is through the extractive governance which is controlled and profited from by not the Congolese people, but by key political elite and international players.

Mobutu was brought to power in the context of the cold war, Bretton Woods, structural adjustment and the east-west struggle that was playing out across Africa and indeed throughout much of the world. Having US and Belgian backing as well as support of the CIA in what became a typical move to 'insert dictator here,' Mobutu brought the then named Republic of Zaire under his control. However, this control was largely dependent on US support and the US in turn relied heavily on the continued flow of resources in order to 'keep the communist threat at bay.'²⁵ Graham Harrison discusses the complexity of sovereignty during the cold war – besides the difficult task of decolonization and setting development on a national agenda, this was to be executed at a time when the cold war was being fought out ideologically. With the economic victory of capitalism, newly sovereign African nations, including the DRC, had great difficulty in defining 'their own economic and political futures.'²⁶

¹⁶ Nzongola-Ntalaja, *The Congo*, 22.

¹⁷ Nzongola-Ntalaja, 22.

¹⁸ Hönke, "New Political Topographies. Mining Companies and Indirect Discharge in Southern Katanga (DRC)," 106.

¹⁹ Nzongola-Ntalaja, *The Congo*, 6.

²⁰ "A Nightmare In Heaven' — Why Nobody Is Talking About The Holocaust in Congo."

²¹ Newbury has divided the decolonization process into a relatively simple 4 phases which is useful in looking at the complicated history of the DRC in a short amount of space, but obviously each phase can be greatly expanded on in Newbury, "The Continuing Process of Decolonization in the Congo," 132.

²² Newbury, 135.

²³ Newbury, 136.

²⁴ Reyntjens, *The Great African War*, 3.

²⁵ Larmer, Laudati, and Clark, "Neither War nor Peace in the Democratic Republic of Congo (DRC): Profiting and Coping amid Violence and Disorder," 2.

²⁶ Harrison, "Debt, Development and Intervention in Africa: The Contours of a Sovereign Frontier," 190.

Reyntjens ties the political restructuring of the whole central African region to the exploration of boundaries by the Rwanda Patriotic Army (RPA). The RPA tested limits of governance and exploitation and when they found that there were no red lines at which point the international community would intervene, the war broke out regionally.²⁷ Rwanda, Uganda and Burundi joined forces with the intention of ending the reign of Mobutu and in May of 1997 Laurent Kabila took power with the help of this coalition as allies. However, these alliances quickly deteriorated and in August 1998 Rwanda and Uganda attacked again, but this time Angola and Zimbabwe shifted to ally with Kabila and the successive change of power did not materialize. Instead a slow and cumbersome second war broke out which took years of pressure to come to an inconclusive agreement. Although the Lusaka Accord was first signed in July 1999, Laurent Kabila blocked it from being implemented. After his assassination, Joseph Kabila, his son and successor restarted peace negotiations in January 2001. Even then, it took an additional three and a half years of negotiation before any lasting accord was signed.²⁸

In the ongoing process of decolonization, resources have often hampered the responsibility of the state towards the citizens of the country. Throughout the DRC's postcolonial history, power structures have been dependent on natural resources and the time when resources were harnessed to address the needs of the population was short lived. More frequent was the diversion of resource wealth to fund private interests or ongoing conflict. Furthermore, the situation of insecurity in the DRC has always been a facilitating factor for the extraction of resources, insecure livelihoods and a constant risk of conflict has kept long term goals of development from feeling feasible. Instead, local populations have turned to short term exploitation of resources as often the only available livelihood. The society has shifted from agriculture to mining and despite many negative aspects it is not likely to go back.²⁹ Heavy handed governance and the breeding of insecurity has been the strategy of generations of companies wishing to make the most profit from the DRC's resource wealth, without sharing that profit with the country's inhabitants. Sadly, this has not changed significantly in the present situation, in fact, it was further exacerbated by the years of civil and regional war that the DRC experienced from 1990's into the 2000's and the insecurity which is still rampant today despite international regulative efforts.

2.2 The Mining Industry

The DRC hosts incredible mineral reserves. The frequently cited 3TGs are the four most common 'conflict minerals' which stand for tin (or cassiterite), tungsten (wolframite) and tantalum (coltan) and gold ore. Industrial mining in the Kivus and Ituri is primarily centered around gold deposits whereas the 3Ts are more commonly exploited by artisanal mining. Besides the 3Ts, cobalt and copper also play leading roles in the DRC mineral trade,³⁰ although, so far, these are more commonly mined in the Katanga provinces. This thesis primarily discusses North and South Kivu and Ituri district in the province Orientale. Ituri is the site of some of the largest gold deposits in the world – North Kivu also has gold and North and South Kivu both have high concentrations of tin, tungsten, and tantalum.³¹ With available resources that could make the DRC one of the richest countries in Africa, according to World Bank data, there is an unequally distributed GDP of 37.2 billion USD in 2017 with a rising population of 78 million.³² The CIA world factbook estimates the 2017 GDP per capita at 700 USD which is the second lowest in the world.³³

²⁷ Reyntjens calls the international community the "so called international community" because of the vagueness of the connection between various international actors, Reyntjens, *The Great African War*, 4.

²⁸ Reyntjens, 8.

²⁹ Kelly, "This Mine Has Become Our Farmland": Critical Perspectives on the Coevolution of Artisanal Mining and Conflict in the Democratic Republic of the Congo."

³⁰ Wilson, "Democratic Republic of Congo Tells Mining Companies to Relocate."

³¹ Seay, "What's Wrong with Dodd-Frank 1502?," 7.

³² "Congo, Dem. Rep. | Data."

³³ "The World Factbook — Central Intelligence Agency."

This brings us back to the central question: with the resource wealth available, how are extractive regimes funneling money out of the country, often using the labor of Congolese citizens, but without improving the welfare of the population?

Coltan (tantalum) mining in the DRC is almost exclusively mined in an artisanal or medium sized operation – unlike gold, the deposits are too small to be worth mining on an industrial scale. Therefore, this is not a mineral specifically targeted for industrialization, however it is worth noting the significant deposits in the Kivu Provinces as well as the fact that in 2009 the DRC passed Australia as the largest supplier of Coltan worldwide.³⁴ One of my interviewees confirmed my suspicion that the focus on industrial extraction of gold is due to the high profits. While the illegal gold trade is still a huge part of the eastern DRC economy, there are several examples of industrialized sites, including the Twanziga and Namoya mines of Banro, and the Kibali goldmine of Randgold and AngloGold Ashanti. There is also speculation of the industrialization of several other sites near Kibali, Vector Resources, an Australian firm, for example.³⁵ While it used to be monopolized by shady and unproductive state-owned mines, militias and illegal exportation through neighboring countries, the gold output of the DRC has been skyrocketing since the relative peace of the early 2000's. From 100 kilos of gold in 2007 to 18 tonnes in 2014,³⁶ it is clear that industrialization has led to higher production and most likely more transparent reporting.

While the industrial sector focuses primarily on gold, the extractive industries in general contribute heavily to the economy of the DRC constituting 97,5% of national exports, 20% of GDP and 23.9% of employment.³⁷ Scholars and practitioners agree that it is very likely that these numbers are even higher since much of the extractives are produced, taxed and exported in an economic grey zone and not all activity is registered. Furthermore, in 2010, an approximate 90% of DRC's total mining output stemmed from artisanal mining activities, and thus, artisanal mining is the single largest contributor to the GDP.³⁸ With between 800,000-1,500,000 artisanal and small scale mine (ASM)³⁹ workers in DRC this makes the DRC the largest host of ASM mining (per country) in the world.⁴⁰ Furthermore, according to PACT's Promines study, only 'a tiny percentage'⁴¹ of artisanal miners operational in the DRC hold the official *Carte de Creuseur* which grants legal artisanal mining rights. Despite this, the number of concessions granted to artisanal mining are a fraction of those granted for LSM (large-scale)⁴² mining exploration and exploitation (see Annex 3 on active concessions in the Kivu Provinces). Thus, using deductive reasoning, we can see that most of the ASM mining takes place out of the realm of legality and is therefore difficult to study or take accurate statistics.

With the majority of mining in DRC being ASM as well as the plethora of armed groups still active in the Kivu provinces,⁴³ there is a lot at stake for both the international commodity market and communities on a local level. The primary focus of research and reporting is on the

³⁴ Bleischwitz, Dittrich, and Pierdicca, "Illicit Trade with Coltan and Implications for Certification," 158.

³⁵ Webb, "Vector Eyes Resource Adjacent to World-Class Kibali Mine."

³⁶ "DRC Gold Production Set to Quadruple."

³⁷ According to the Extractive Industries Transparency Initiative (EITI) and World Bank Data "Extractive Industries Transparency Initiative : DRC Overview."

³⁸ Schouten, "Extractive Orders: A Political Geography of Public Authority in Ituri, DR Congo," 7.

³⁹ ASM "covers both artisanal and small-scale mining. The term ASM is used in a broad sense to refer to all kinds of local mining activity that larger companies could encounter" in: Pelon and Walser, "Mining Together Large-Scale Mining Meets Artisanal Mining: A Guide for Action," 7.

⁴⁰ According to the World Bank Group's report Pelon and Walser, "Mining Together Large-Scale Mining Meets Artisanal Mining: A Guide for Action."

⁴¹ Hayes et al., "PROMINES Study," 5.

⁴² While definitions vary, I will rely most heavily on the following definition "LSM refers to the activity of major companies as well as to mid-tier and junior-level companies or to any formal company that complies with international performance standards" in: Pelon and Walser, "Mining Together Large-Scale Mining Meets Artisanal Mining: A Guide for Action," 7.

⁴³ "Armed Groups in Eastern DRC."

ASM sector in the DRC, though this is important, there are possibly large consequences of ignoring the growth of LSM exploration in the country. It is clear that both LSM and ASM practices make up the current regime of resource extraction in the DRC, there is a contestation of legitimacy and power between the LSM and ASM operations, sometimes resulting in conflicts. These conflicts further exacerbate the tense dynamics in the region and show the political and financial power behind LSM projects. The grievances of ASM communities is suppressed, repressed and disengaged from the project leaving them with little agency in the face of mining industrialization. Artisanal miners see LSM companies as a threat to their livelihoods and intrusive to property rights. With the rising prices of commodities, and the trend of the Congolese government working with MNCs, there is a chance, or even likelihood that in the next years, the DRC will see an increased industrialization of gold, coltan and tin mine sites.⁴⁴ Due to this and my hypothesis of MNC involvement in extractive governance, there are several actors which need specific attention in the role that they play in the DRC, particularly in the Kivu Provinces and Ituri.

The modern Congolese state has been built on extraction and key political actors including the three recent presidents have amassed personal fortunes from the mineral wealth of the country. The institutions in place to govern extraction have changed due to internal and external pressures since independence. Despite Mobutu's privatization of the mining sector there are state owned companies which operate alongside international mining giants. Operating in Katanga province, but still relevant in the mining sector across the DRC is Gécamines – the largest state-owned mining company in the DRC, and a focal point of opacity and corruption.⁴⁵ Gécamines is the successor to the Belgian owned *Union Minière du Haut Katanga* (UMHK) and manages a large portfolio of important mining permits, frequently engaging in joint ventures with private mining companies. The company follows in the footsteps of previous extractive enterprise and acts as a 'parallel state'⁴⁶ according to years of Carter Center analysis. Furthermore, they publish no annual reports and transfer of financial assets as well as revenue are not public and adhere to special laws. Apparently, revenue from sale of assets is deposited to a fund outside of the public treasury and the ultimate beneficiaries are not disclosed.⁴⁷ SOKIMO is another state-owned colonial legacy of extractive governance, operating in Ituri province and now having relinquished control to other international mining firms while maintaining a portion of profits. SOKIMO and Gécamines are just two examples of state owned enterprises which could feasibly provide much needed profit and development, but which instead channel their earnings into shady deals and eventually, most likely, the coffers of the country's political elites. Since the state's own resource governance mechanisms leave much to be desired in the realm of transparency and accountability, there is little wonder that other mining companies follow suit since it is perhaps more profitable to do so.

While there are regulative mechanisms which I will cover in Chapter Three, the rules of extraction in much of eastern DRC are subject to the complex negotiation of power and legitimacy on a local level. Despite national and international laws being in place, there are many arrangements made on and around the site of the mine to negotiate the legitimacy of these enterprises. For example, Loncor Resources (formed by directors of Banro),⁴⁸ operating both in south Kivu and Ituri provinces, has negotiated terms with the local customary chieftaincy, but without engaging other local civil society actors. This one-sided negotiation has legitimized their operation in the eyes of some. However, here too the expectations of what the company would provide far outweighed the reality – the chieftaincy requested 10% of profits which the *chefferie*⁴⁹

⁴⁴ "Extractive Industries Transparency Initiative : DRC Overview."

⁴⁵ Creamer, "DRC's State Mining Company Hiding Revenues – Carter Center."

⁴⁶ "Carter Center Releases Comprehensive Report on the DRC's State-Owned Mining Company and Investment Partners."

⁴⁷ "Resource Governance Index."

⁴⁸ Schouten, "International Mining Corporations and Socio-Political Conflict in the DRC," 9.

⁴⁹ Local customary chieftaincy defined in Schouten, "International Mining Corporations and Socio-Political Conflict in the DRC."

would then distribute throughout the community.⁵⁰ It is not a recent invention by corporations to utilize local chiefs as intermediaries for political or economic agendas, in fact it is a tradition of both colonial and postcolonial extractive regimes to incorporate local leadership into their patronage networks in order to use their influence to 'extend central authority into the countryside.'⁵¹ There are still many negotiations of political and economic exchange that are profited from and influenced by local tribal leaders. However, Tull notes that the inclusion of local leaders in the central state politics served to erode their legitimacy in the eyes of local population, as they saw fit to redistribute land as an economic asset in attempt to retain political influence, which undermined long standing customs as land shifted from a social to economic resource.⁵²

2.3 Case Studies: North Kivu, South Kivu & Ituri

These three cases were chosen for their geographic relevance to this research and because they have different timelines as well as impacts and outcomes. I was able to draw information from various reports, but much of the relevant data is out of date, proving the difficulty of researching this subject. For instance, I worked primarily with reports from 2011 and 2014 and attempted to fill in the blanks with interviews, the more recent reports by the UN group of experts and news articles. Furthermore, I put together maps of the corporate structure of each of the companies owning the mining concessions on which these sites are active (both LSM and ASM) based on public trading information, news articles and the information from a world-database on corporate profiles.

2.3.1 Kibali Gold Mine – Ituri, Province Orientale

When Belgian security forces first discovered gold deposits in the north-eastern DRC, they created a company in 1919 to govern extraction. This company was called *Société des Mines d'Or de Kilo-Moto* (SOKIMO) and was governed as a state within the state.⁵³ After decolonization, SOKIMO nationalized and became OKIMO, but kept the same colonial governance strategy and control over the gold deposits. For 20 years lacking infrastructure and technical skills made gold production falter until Mobutu liberalized the mining sector in 1982. OKIMO held onto public authority despite declining production – the Congolese state used the board of OKIMO to secure legitimacy over land and mining concessions that it did not actually control. There was a struggle for legitimacy with both OKIMO and rebel groups acting in similar ways to gain and maintain control of resources throughout the years of war. In 2002 Ashanti Goldfields (now AngloGold Ashanti) negotiated access to explore concessions with rebel groups and the OKIMO board. In 2010 the OKIMO office privatized and became Société SOKIMO ... (again). Today, Kibali goldmine is a Randgold, AngloGold joint venture with 10% shareholding by SOKIMO while the development of Kibali was 1.7 billion USD, the site is predicted to produce 600,000 ounces of gold per year for the next 12 years. This is 762 million dollars a year per year for 12 years at the July 2018 current gold price in USD.⁵⁴

In understanding the spatial element of mining in the DRC, the Kibali Gold Mine presents an interesting case that can be used as an example. All of the needed infrastructure was flown into the remote Kilo-Moto gold belt in Orientale province, and the staff and engineers of the mine are similarly imported. The sole export is gold and that too leaves the country spatially removed from the poverty from which it is extracted.⁵⁵ This mine epitomizes the sovereign concession and the

⁵⁰ Schouten, 8.

⁵¹ Tull, "A Reconfiguration of Political Order?," 436.

⁵² Tull, 437.

⁵³ Schouten, "Extractive Orders: A Political Geography of Public Authority in Ituri, DR Congo," 5.

⁵⁴ "Kibali Gold Mine, Orientale."

⁵⁵ Wilson, "Randgold's Secret for Congo Mining: Fly People In, Gold Bars Out."

idea of zones of extraction. The Kibali zone is relatively small and incredibly self-contained, I present the case as a clear-cut example of the zone of extraction and sovereignty of corporations acting in these extractive zones. Most of the other cases are messier and include more actors in competition over the legitimate extraction of resources. However, the background is more complicated. Leaving aside the state-owned shareholder, AngloGold and RandGold both have complicated corporate structures with hundreds of companies in their corporate groups. By following the beneficial ownership structure, in an initial study it seems as if the corporations may be based in South Africa and the UK, however, the stakeholders and thus the decision-making power, seems to lie primarily in the US.

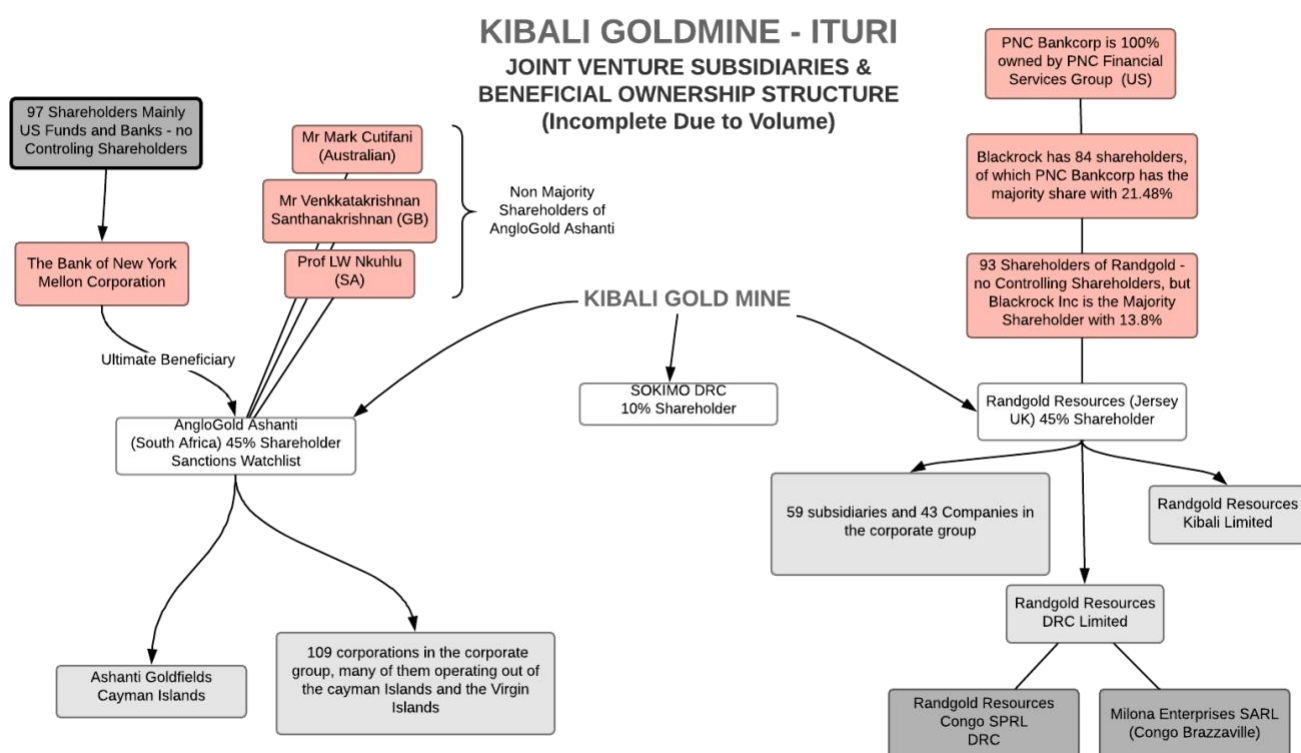


Figure 2-1 (public trading information)

2.3.2 Alphamin Bisie – North Kivu Walikali Territory

Alphamin Resources Corp. a vehicle of Denham Capital Partners, a UK based private equity fund⁵⁶ is developing the first industrial tin mine in the Walikali territory of North Kivu. Tremont Master Holdings, a Denham Capital subsidiary explored the market to fill a projected tin shortage. Using the Toronto listed, and Mauritius based Alphamin Resources, they expect the first tin production to be in 2019 and for steady state production to be an average of 9,642 tonnes of tin per year. Resulting in EBITDA (Earnings before Interest, Taxes, Depreciation and Amortization) of around 110 Million USD per year, making the payback period just 2 years. Furthermore, Alphamin expects to produce high quality tin at a highly competitive price. Because the Kivu provinces are host to a less developed mining sector, the few companies that do operate

⁵⁶ “Denham-Backed Bisie Project ‘the Start of a New Tin Province.’”

there are seen as less risk averse, and they are known for dealing with challenging geographic, social and political climates.⁵⁷

The *Ministère des Mines* site of the DRC provides documents and information on the mining sites they work with⁵⁸ and the contacts that I spoke to confirm that the government in general cooperates with MNCs. Aside from a lucrative enterprise for state elite, the extractive sector could feasibly supply a great deal of tax revenue which could go to bolstering state infrastructure. Since there is small return on ASM mining due to heavy illegal taxation, working relationships between the government and corporations could make some progress towards a collective vision. It seems this is what Alphamin means to do. As a relatively new company in the region and with very optimistic outlooks on environmental and social policies is mainly interesting as it is a first example of industrialization of deposits other than gold in North Kivu. If the model of industrialization in the remote and unstable region works, it could prove a blueprint for other mining industrialization. Despite positive rhetoric, it is important to note that Alphamin has not started production and thus does not have a benchmark to compare performance to, this mine will prove to be the benchmark for future sites, whether positive or negative.

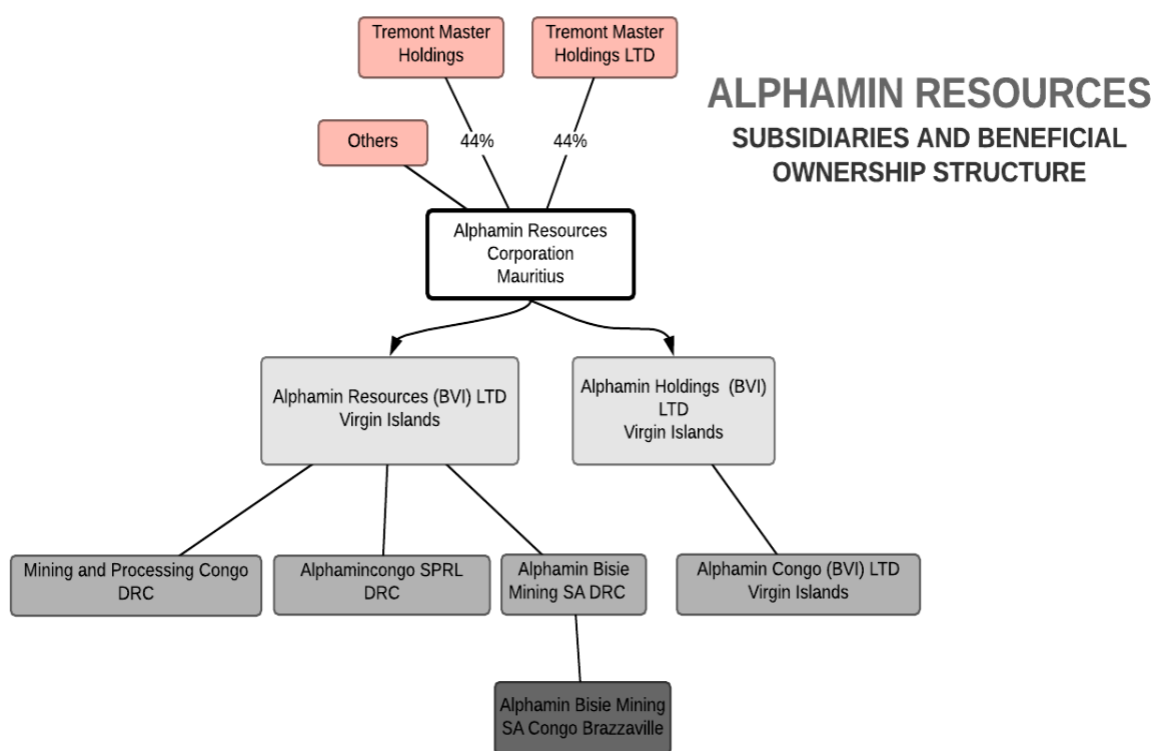


Figure 2-2 (public trading information)

⁵⁷ “The Richest, Riskiest Tin Mine on Earth.”

⁵⁸ “Alphamin Bisie Mining - Ministry of Mines.”

2.3.3 Banro – Mukungwe Case Study, South Kivu

The Mukungwe mine is in the Walungu territory of South Kivu province just to the west of the intersection of the Rwanda, Burundi and DRC borders. The area is rich in gold, and there was extensive artisanal mining on the Banro concessions – in 2014 an OECD study counted 10,000 artisanal miners. Furthermore, the site was validated in 2012 and certified as red because of the presence of multiple armed groups including the *Forces Armées de la République Démocratique du Congo* (FARDC) and the *Forces Démocratiques de Libération du Rwanda* (FDLR).⁵⁹ The site and area in general have a history of conflict and mining has benefitted these groups for years. The gold production of the 100 plus active mine pits is indeterminate because it is not sold through official channels due to the ‘red’ validation rating.⁶⁰

Banro first became involved in the DRC when they bought 72% of the state mining corporation SOMINKI’s shares in 1996 when SOMINKI was nearing bankruptcy. This purchase amounted to 47 mining concessions covering over one million hectares of land for 3.5 billion USD. To contextualize, this amounts to concessions covering ¼ of the Netherlands as the country is roughly four million hectares.⁶¹ In Yves Engler’s 2017 article he quotes Keith Harmon Snow, war journalist, photographer and activist saying ‘Banro Corporation is one of the most secretive corporations operating in Congo, and they have established and maintained their control through very tight relations with the Rwandan Kagame regime. Banro has taken over thousands of hectares of South Kivu province by manipulating the local mwamis (chiefs), by bribing officials and by infiltrating officials into power who are friendly to Banro and Kagame’s interests.’⁶² Throughout the late 1990’s and early 2000’s Banro was making huge profits off of the sale of mining shares on future ventures.⁶³ During the conflict ridden early 2000’s, Banro was blacklisted by the UN for their operations in the DRC warzone. At intervals of a couple of months, Banro and its subsidiaries and associated companies such as Loncor Resources, are in the news for reports of kidnapped employees, killings and protests.⁶⁴ Operating in a risky environment has ultimately gained Banro giant profits before they even opened their first mine in the region, while the Namoya mine and each Banro endeavor seems to be plagued by hostility, they ultimately have enjoyed profits while the DRC maintains one of the lowest GDPs per capita in the world.

Figure 2-3 on following page (public trading information)⁶⁵

⁵⁹ Mthembu-Salter, “Baseline Study Two: Mukungwe Artisanal Mine, South Kivu, Democratic Republic of Congo.”

⁶⁰ The UN validates mine sites, for minerals to be certified conflict free they need to theoretically come from “green” sites discussed more in Mthembu-Salter; Jaekel, “Far From Reality.”

⁶¹ according to the Ministry of Agriculture, Nature and Food Quality “Facts and Figures 2010: The Dutch Agricluster in a Global Context,” 38.

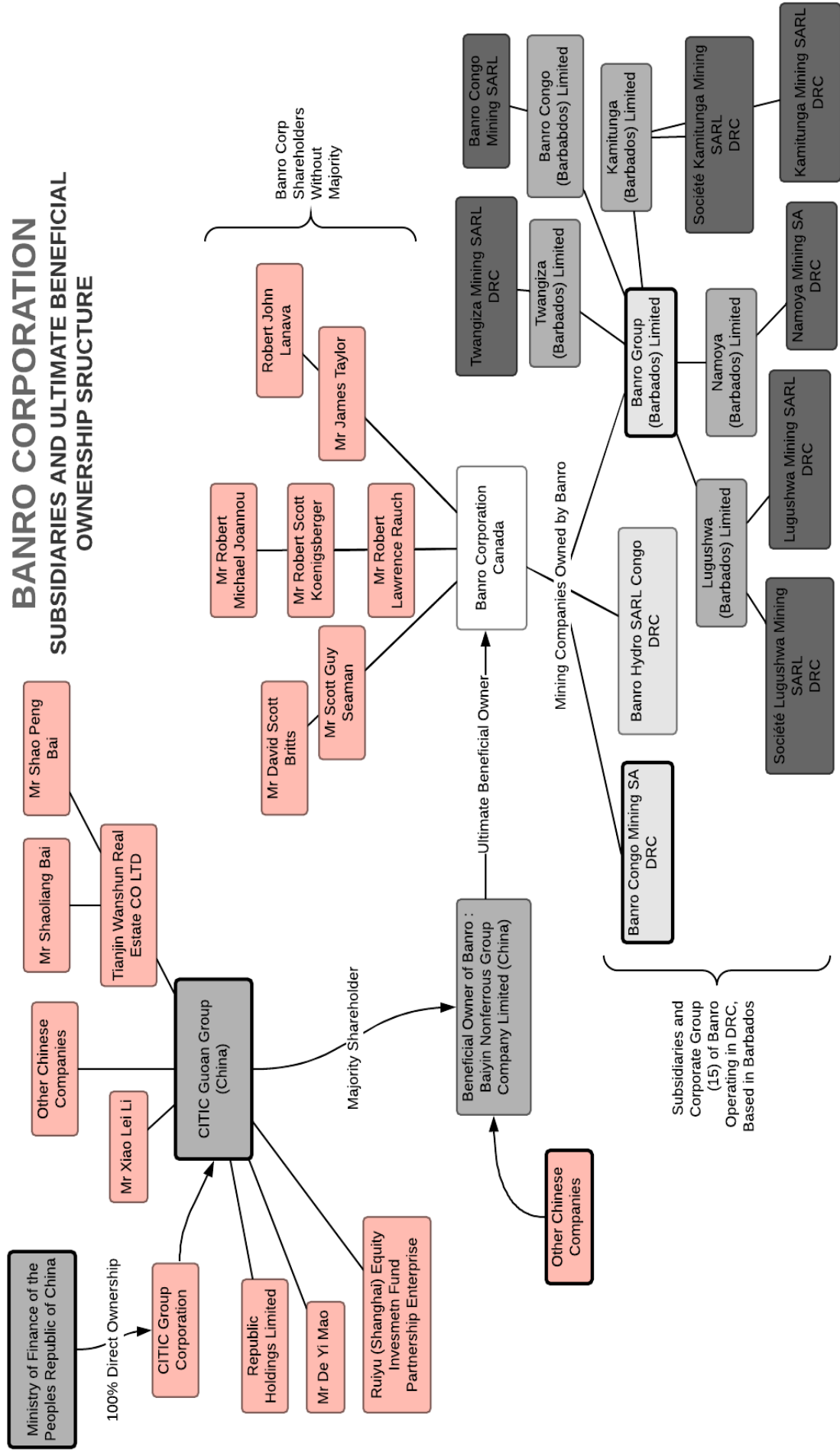
⁶² Engler, “Congo-Kinshasa: Wherever This Canadian Mining Company Goes, Violence Seems to Follow.”

⁶³ Schouten, “International Mining Corporations and Socio-Political Conflict in the DRC,” 9.

⁶⁴ “Militia Kills Five in Attack on Banro Corp’s East Congo Gold Mine”; Engler, “Congo-Kinshasa: Wherever This Canadian Mining Company Goes, Violence Seems to Follow”; Jamasmie, “Banro Halts Gold Mine in Congo Due to Violence, Shares Collapse.”

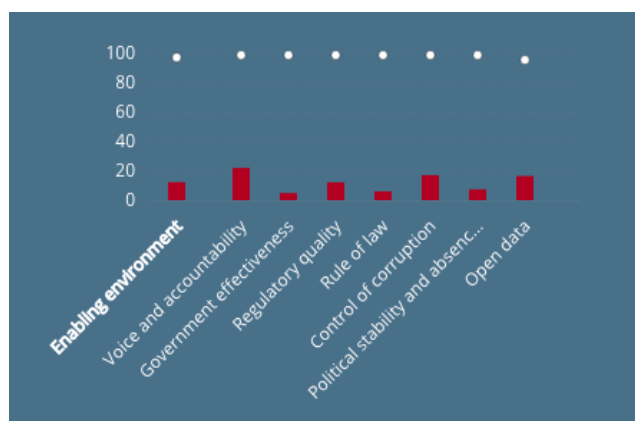
⁶⁵ “Portal for Information on the Industrial Mining Sector in the Democratic Republic of the Congo.”

BANRO CORPORATION SUBSIDIARIES AND ULTIMATE BENEFICIAL OWNERSHIP STRUCTURE



2.4 Resource Governance: Enabling Environment

The NRGi has indexed overall resource governance based on three principal components, namely revenue management, value realization and enabling environment. These are comprised of 14 subcomponents and 54 indicators. Overall this joint indexing endeavor with EITI concluded that there is a significant gap between the legal framework (on both a national and international level) and implementation.⁶⁶ Of most noticeable interest are the subcomponents of the DRC's



abysmal 'enabling environment' rating which includes government effectiveness, rule of law and regulatory quality among others.⁶⁷ This is exactly what enables the contestation of authority over resources.

Figure 2-4 (Resource Governance Index)

There is a lot of push back on the part of the corporations operating in the DRC, though it is an extremely difficult environment to work in, this simply underlines the importance of meticulous corporate practices. Unfortunately, in a lot of cases corporations are not willing to engage in transparent and un-corrupted negotiation over resource allocation, contract transparency illustrates this unwillingness. Rosenblum and Maples point out the discrepancy between what *needs* to be confidential in a mining contract, versus what some countries and corporate actors *want* to be kept confidential. There are confidentiality clauses built into most contracts between two private parties – however, the complication arrives when, such as the case of the DRC, one of the parties entering into and negotiating these contracts is a government. A government, in theory has not a priority of profit maximization, but of obligation towards its citizens, furthermore 'citizens have a right to know how their government is selling their resources.'⁶⁸

2.5 Conclusions: History & Extractive Regimes

Throughout this thesis, I emphasize the complexity of resource governance which has permeated the society, politics and economics of the DRC. In order to understand how regimes of extraction are maintained, it is pivotal to look at the history of extraction, which I believe has served to legitimize and normalize the current regime by following patterns of historically legitimate extraction. Furthermore, in broadening our theoretical understanding of governance, which we will do more in the coming chapter and expanding our assumptions about who is involved in resource governance on a local and international level, we can begin to see a clearer picture of how micro and macro negotiation of legitimacy and authority play leading roles in sustaining the extractive regime in the DRC. The men and women profiting from the exploitation of minerals in the DRC are not just bandits and thieves or rebel militias, but corporations which are supported by consumption. Therefore, it is time to understand how the international community is involved in the extractive governance regime.

For many years, especially in the post-cold-war international political order, states were measured based on their effectiveness in providing the ideal-typical Weberian state model based

⁶⁶ "Resource Governance Index."

⁶⁷ More information on the NRGi resource governance indexing, along with comparisons between the 80 other resource rich countries indexed in the 2017 assessment can be found at: <http://www.resourcegovernanceindex.org/> "NRGI Reader."

⁶⁸ Rosenblum and Maples, *Contracts Confidential*, 15.

on the assumption that the state is both capable and willing to provide the minimum standard of security, social welfare and representative governance. However, this is not an effective model in the current state of DRC's political order⁶⁹ and the paradigm has shifted to incorporate a variety of 'hybrid political orders.'⁷⁰ These hybrid political orders, allow or even facilitate a context where multiple unconventional actors are able to compete with the state and one another, over the allocation and extraction of resources. The DRC is not the only country with ungoverned, or hybrid political spaces,⁷¹ but in the case of mineral resource extraction and in a complex conflict setting the eastern DRC is one of the most interesting examples where I believe MNCs play a key role in governing beyond their physical presence. This governance role arises because 'where state agencies are incapable or unwilling to deliver security and other public goods, people will turn to other social entities for support.'⁷²

⁶⁹ Boege, Brown, and Clements, "Hybrid Political Orders, Not Fragile States," 16.

⁷⁰ Atanasijevic, "Natural Resource Governance in Hybrid Political Orders," 9; Boege, Brown, and Clements, "Hybrid Political Orders, Not Fragile States."

⁷¹ Atanasijevic quotes OECD 2011 saying that "the majority of states in the global south can be described as hybrid political orders" Atanasijevic, "Natural Resource Governance in Hybrid Political Orders," 9.

⁷² Boege, Brown, and Clements, "Hybrid Political Orders, Not Fragile States," 16.

3 FAILING LEGITIMACY, EXTRACTIVE GOVERNANCE & REGULATION

Understanding that resource governance in the DRC cannot be based on the ideal-typical Weberian state opens the discussion to new theoretical governance models. Twilight institutions⁷³ and informal, grey or shadow economies⁷⁴ are a large part of the reality of the Congolese and indeed African economic world. To try to evaluate the extractive governance regime of the DRC based solely on the legal economy is an exercise in futility, the study of the illegal is intangible due to the reliability and availability of the data. Based on interviews and the academic works published on this issue, I see value in looking at the extraction of resources in the DRC through the lens of a regime of extractive governance in which MNCs play a key role. In this chapter I discuss the failing state legitimacy in the DRC and how this leaves a space for MNCs to provide services which enhance their functions of extractive governance. Then, I will discuss the national and international regulations which play a role in allowing a continual contestation of legitimacy. Finally, I will introduce spatiality in the context of resource governance, while I cannot delve too deeply into this it is important because geography and zones of extraction are part of extractive governance, historically and contemporarily.

3.1 Failing State Legitimacy

In the geographically isolated regions of eastern DRC, there is a distinct absence of state legitimacy stemming from a physical absence of state infrastructure and the opinions of the local populations.⁷⁵ In the void left by the state, other actors, groups and organizations have sprung up to fill the space of regulatory authority as well as the provision of public goods such as infrastructure and security.⁷⁶ Legitimacy being exchanged for public services goes back to Hobbesian social contract theory and the Weberian notion that ‘social order is accepted as valid either due to its historicity, to its emotional value or to instrumental reasoning.’⁷⁷ Furthermore, regulatory control, also an essential component of an ideal state, has slipped beyond recognition in the DRC, this is also brought up in the impacts of regulation, in that it does not function properly in the context of eroded state legitimacy.

Political liberalization in the DRC has succeeded in garnering electoral legitimacy for the government, but from external donors, not the people – this has ‘emboldened [the government] to seek unfettered state power, suppressing societal grievances as illegitimate, a process that donors have largely tolerated in their desire to see a reconstituted central state.’⁷⁸ However, the Kabila regime has proven to be either unwilling or unable to lead a state building process and the agency of local communities has largely been ignored by the international community due to the perception of reconstruction as a top down endeavor. The idea that local governance can be driven by forces above and exterior to the communities in which they operate, brings about the important distinction between ‘bottom-up’ systems of order versus ‘proxy’ actors who are controlled and manipulated by powerful external bodies.⁷⁹ Although Meagher does not explicitly mention corporations as one of these external, ‘top-down’ actors, it is an important concept to

⁷³ Lund, “Twilight Institutions.”

⁷⁴ Nordstrom, *Shadows of War*.

⁷⁵ Meagher, “Smuggling Ideologies: From Criminalization to Hybrid Governance in African Clandestine Economies”; Titeca and Flynn, “Hybrid Governance, Legitimacy, and (Il)Legality in the Informal Cross-Border Trade in Panyimur, Northwest Uganda,” 81–86.

⁷⁶ Schouten, “Extractive Orders: A Political Geography of Public Authority in Ituri, DR Congo,” 3.

⁷⁷ Weber 1972 in Schröder and Schmidt, *Anthropology of Violence and Conflict*, 8.

⁷⁸ Tull, “Troubled State-Building in the DR Congo,” 645.

⁷⁹ Meagher, “The Strength of Weak States?,” 1082.

explore. The work of Jana Hönke⁸⁰ and Peer Schouten⁸¹ validate my claim that corporations manipulate the power dynamics of local governance for corporate interests. Since I was unable to interview many participants in the everyday life in eastern DRC, I will rely heavily on the work of various researchers who were able to spend time gathering information, in person, on the experiences of state legitimacy, and its alternatives, in the regions heavily influenced by extraction.

While the lack of state infrastructure leaves a void that is filled by non-state actors, including multinational mining corporations, I question how the common narrative of best intervention is a propping up of state institutions. DRC scholar and humanitarian practitioner Severine Autesserre notes that on a local level, the state officials such as military, police and governmental administration **'continue to be responsible for the largest part of all human rights violations.'**⁸² The clear consequence of this state predation is that 'throughout the eastern Congo, people often experience the state as an oppressive, exploitative, and threatening machine, instead of seeing it as a structure set up for their benefit. Overall, large parts of the population survive in spite of the state rather than with its help.'⁸³ In this case, reconstructing the state only serves to strengthen the institution which is at the crux of much of the insecurity, corruption and predation. Meanwhile, the void of state infrastructure allows and even encourages corporations to perform key tasks that are traditionally performed by the state – in theory this lends them legitimacy. However, it is interesting to note that many researchers⁸⁴ including Autesserre, found that Congolese across socio-economic lines believed that eventually a stronger state would be an asset to the country. 'Every Congolese I talked to, from poor peasants to high-level policy makers, presented the extension of state presence as an essential measure to end the violence. Even if they did not trust the police and the army, even if they had been victims of abuses in the past, they still hoped that state reconstruction would eventually better their living circumstances.'⁸⁵ This faith despite the real risks associated seems like a clear sign that the alternative governance mechanisms are found to be equally or even more disruptive and predatory. Tull explains that the 'waxing and waning state legitimacy'⁸⁶ is a product of bad experiences of alternative means of rule and control such as by rebel or military forces.

With the frequency of actors 'privately appropriating public resources' there is the 'consistent blurring of the public-private divide' which typically characterizes a strong state institution. In North Kivu 'the desire to evade the state and to engage with it only intermittently has deep historical roots, since it was also characteristic of the colonial period...The pattern of state society relations characterized by fragmentation and reconstitution which has been traced by the colonial, post-colonial and postwar regimes bespeaks a definite path dependency, with a stunning lack of institutional innovation. – Tull 2003: 446

Beyond their understanding of the contestation of legitimacy and the role of public and private actors in contexts such as the DRC where the public-private line is often blurry, Titeca and Flynn discuss the use of taxation (both by the state and other actors) as yet another metric of legitimacy.⁸⁷ They note that taxation is at the heart of a social contract and the legitimacy of actors

⁸⁰ Hönke, *Transnational Companies and Security Governance*.

⁸¹ Schouten, "Extractive Orders: A Political Geography of Public Authority in Ituri, DR Congo."

⁸² Autesserre, "Dangerous Tales: Dominant Narratives on the Congo and Their Unintended Consequences," 219.

⁸³ Autesserre, 219.

⁸⁴ Kelly, "'This Mine Has Become Our Farmland': Critical Perspectives on the Coevolution of Artisanal Mining and Conflict in the Democratic Republic of the Congo"; Autesserre, "Dangerous Tales: Dominant Narratives on the Congo and Their Unintended Consequences"; Autesserre, "The Trouble with Congo."

⁸⁵ Autesserre, "Dangerous Tales: Dominant Narratives on the Congo and Their Unintended Consequences," 221.

⁸⁶ Tull, "A Reconfiguration of Political Order?," 446.

⁸⁷ Titeca and Flynn, "Hybrid Governance, Legitimacy, and (Il)legality in the Informal Cross-Border Trade in Panyimur, Northwest Uganda," 81.

wishing to tax commerce needs to be established. In the case of the DRC, there are multiple authorities taxing and extorting value all the way along the supply chain of natural resources, this leaves little room for legitimacy of any of these actors, the state among them. This is just one sign of the illegitimacy of the state in an area where legitimacy is dominated by militarized mine sites and rebel groups. Furthermore, Gaynor has also researched the issue of state legitimacy in the DRC and has found complementary evidence that the trust in and legitimacy of the state is 'low to non-existent.' He points out the pivotal link between illegitimacy of the state and natural resource wealth: 'in the relative absence of any notion or structures of downward accountability or responsiveness to local concerns and constituents, political leadership at all levels remains associated with personal wealth consolidation.'⁸⁸ This illustrates not only the point about lacking state legitimacy facilitating proxy and hybrid governance, but also the ingrained role of political elites in their own personal accumulation of wealth – bringing us back to the larger debate on natural resource governance; who or what (in the case of institutions) is responsible for controlling and allocating natural resources? What purpose does rule of law⁸⁹ serve if the law supports the personal wealth accumulation of political elites? Difficult to address but important to consider, are there consequences for breaking the fundamental rules of a legitimate social contract?

3.2 Hybrid Resource Governance

In the context of failing state legitimacy, aspects of governance move into a more fluid state. There is the negotiation for public authority and many more actors involved in the competition over legitimacy. To instrumentalize the changing context of governance, I would define hybrid governance as: understanding the process of regulation and legitimation beyond the narrow state centric view where governance can be seen as a complex interaction, negotiation and contestation between actors, groups and forces (both state and non-state) which results in the state no longer holding a monopoly over the political framework and thus sharing authority, legitimacy and capacity with non-state groups.⁹⁰ MNCs are key non-state actors which have significant impact on the contestation of legitimacy in extractive spaces. Indeed, with notions of governance contemporarily seen as flexible, I believe that exploring new regimes and practices of governance is necessary to understand the complexity of these practices. Kate Meagher emphasizes the flexibility of the term 'hybrid governance' by saying that it covers a 'range of contemporary perspectives arguing that, in fragile regions, states operate alongside 'informal' and other 'non-state' forms of organization in the exercise of public authority and service provision.'⁹¹ Without sinking into the 'failing and fragile states' debate, I would contend that the DRC and the explicit example of extractive governance and exploitative practices are organized not in an ideal-typical fashion⁹² but in a hybrid regime of constantly negotiated power and legitimacy between armed groups, the state, MNCs and key political and business elites. With the importance of corporations in economic and political institutions, it is not so strange to think of companies as an integral part of governance systems and not just in the DRC.

Hybrid governance is described here as a predatory top-down means to securing control over resources. The predatory actor can be state,⁹³ non-state or corporate by definition, but the

⁸⁸ Gaynor, "Poverty amid Plenty," 403.

⁸⁹ For further information of rule of law in fragile contexts consult Van Veen, "A Shotgun Marriage: Rule of Law in Fragile Societies | Clingendael."

⁹⁰ Definition derived from a combination of Boege et al. 2008:10, Migdal and Schilchte 2005:6 and Hagmann and Péclard 2010:544 found in Titeca and Flynn, "'Hybrid Governance,' Legitimacy, and (II)Legality in the Informal Cross-Border Trade in Panyimur, Northwest Uganda."

⁹¹ Meagher, "The Strength of Weak States?," 1075.

⁹² Schouten discusses the changing conceptions of governance, particularly related to the DRC in his PhD dissertation, although focusing on security, his work provided a basis for the idea of introducing new notions of governance: Schouten, *Private Security Companies and Political Order in Congo*.

⁹³ For an example of state predation in related literature see: Titeca and Flynn, "'Hybrid Governance,' Legitimacy, and (II)Legality in the Informal Cross-Border Trade in Panyimur, Northwest Uganda," 85.

underlying assumptions and power dynamics remain the same. Meagher argues that 'hybrid governance approaches obscure the role of more powerful non-local actors in shaping [...] relations of power and accountability on the ground.'⁹⁴ Perhaps corporations are a good example of these 'non-local' actors who through proxy governance or sovereignty in certain spatially contained enclaves manage to govern and control extraction despite being geographically removed, as most MNCs have their headquarters in another country. Instead of using hybrid governance to 'obscure' the role of these corporations, I use it to address the role more broadly and include more actors in the practices of governance. The concept of indirect governance is explored by Jana Hönke who focuses on particular socio-economic spaces in her analysis of the various configurations of political order in eastern DRC.⁹⁵ What she calls 'enclaves of extraction' are the most relevant socio-economic spaces for the phenomenon that I wish to explore further: indirect governance between MNCs and local state and nonstate actors. 'Besides the policies of colonial and external governments, multinational companies directly shape local governance. Development and security interventions expand liberal rationalities and technologies of governance into the post-colony.'⁹⁶ In the landscape of African governance and intervening practices of globalization, modernization and humanitarian efforts focused on development of social and infrastructural practices, the post-colony is an important factor. As Graham Harrison notes, despite the fact that colonial era flags no longer fly over African soil, there is still the ongoing notion of foreign ownership. Development in Africa has been guided largely along the lines of growing economic and productive capabilities since the discovery of the resource wealth of African nations.⁹⁷

There are many empirical examples of the fragility and complexity of resource governance as well as the many actors involved. For instance, the IPIS study of Walikali mining sites in North Kivu describes the governance systems present as 'isolated forest enclaves with their own governance systems, and economies based on barter [where] public services are almost non-existent, except in the repressive forms of police and military.'⁹⁸ Where governance is not lacking altogether, it is primarily performed by actors other than the state. In Chapters Four and Five the provision of social and security governance by corporations will be discussed in depth, but it is important to establish here the basic principle of corporate involvement in governance functions in the Kivu Provinces, Ituri and indeed in and around all industrial mining concessions. The actors contributing to governance vary greatly depending on the kind of extraction performed. ASM mining sites will generally be more like what is described around Walikali, with military, police and militia groups informally taxing and 'renting' the extractive spaces. Whereas governance around the LSM Kibali Gold Mine in Ituri is more of a fortress of extraction, impermeable and removed from the local community with the concession owners (Randgold 45%, AngloGold Ashanti 45% and SOKIMO 10%)⁹⁹ and primarily the operator, Randgold Resources governing the site in relative sovereignty.

There is a lively academic debate attempting to define public authority in extractive zones,¹⁰⁰ which crosses regularly with the terminology I use to define extractive governance. Looking beyond the history of failing ideal-typical governance structures,¹⁰¹ we can see that alternative systems are now becoming more or less accepted. According to Meagher, the ability of the international economy to work with informal institutions has 'liberated worried ideologues from their dependence on states as the key agents of order and resource access in the developing

⁹⁴ Meagher, "The Strength of Weak States?," 1078.

⁹⁵ Hönke, "New Political Topographies. Mining Companies and Indirect Discharge in Southern Katanga (DRC)," 105.

⁹⁶ Hönke, 109.

⁹⁷ Harrison, "Debt, Development and Intervention in Africa: The Contours of a Sovereign Frontier."

⁹⁸ Cuvelier, "The Complexity of Resource Governance in a Context of State Fragility: The Case of Eastern DRC," 28.

⁹⁹ "Kibali Gold Mine, Orientale."

¹⁰⁰ For two examples see: Schouten, "Extractive Orders: A Political Geography of Public Authority in Ituri, DR Congo"; Meagher, De Herdt, and Titeca, "Hybrid Governance in Africa."

¹⁰¹ Tull, "A Reconfiguration of Political Order?," 430.

world.’¹⁰² This is all too relevant in the case of the DRC, because of changing conceptions of legitimate governance and regulatory authority¹⁰³ the role that corporations could play in the future may become even more integral.

3.3 Regulation

The accounts of the African Progress Report, African Development Bank and the Global Financial Integrity found that in the years between 1980 and 2008 Africa lost 1.4 trillion USD in illicit financial flows, which is more than the total foreign aid contributions in the same time frame.¹⁰⁴ This is to stress that firstly, mismanagement of resource revenue is not just a problem of the DRC and secondly that the efficacy, legitimacy and functionality of both global and regional resource governance mechanisms are in crisis. The revenue that could be supporting countries like the DRC is being mismanaged and the multinational corporations profiting from the extraction of resource are further diverting the flow of capital out of the country. Understanding regulation throughout the supply chain is a part of the greater power dynamics of extractive governance.

Addressing regulation in the DRC needs to be done on both national and international levels. The issues regarding regulation and lessons learned for possible certification schemes of minerals originating from the DRC areas do not stop at the border – there is significant cross border trade, as well as the issue of the supply chain in its entirety. Corruption and lack of transparency is a problem in the DRC and the countries where smelting and production takes place, such as China or south-east Asia.¹⁰⁵ I will not be able to cover cross-border trade or ‘downstream’ regulation, although of course regulation takes place all along the supply chain.¹⁰⁶ Furthermore, regulation, even well meant, often has unintended consequences such as encouraging a *de facto* ban on Congolese minerals and thus loss of livelihood for the artisanal miners and families depending on their main source of income and ‘rogue businesses’ replacing ethically managed enterprises which would completely ignore due diligence protocol and environmental and social impacts.¹⁰⁷

In the wake of abundant literature on the resource curse that followed Collier and Hoeffler’s¹⁰⁸ seminal work, international and regional resource governance mechanisms were adopted to attempt to address the possible negative outcomes for resource rich countries.¹⁰⁹ Not all of these mechanisms were successful because role intended for the government was not filled. In the end, aside from arguments of resource reductionism (disproportionate blame of economic and social woes on the ‘resource curse’) there have been mixed results and many unintended consequences stemming from the adoption of these regulative mechanisms.

¹⁰² Meagher, “Smuggling Ideologies: From Criminalization to Hybrid Governance in African Clandestine Economies,” 8.

¹⁰³ Schouten gives a broad overview of changing conceptions of governance in the DRC which given its specificity to the region of my study was very helpful in shaping my own conceptions of regulatory authority in the Kivu and Ituri provinces: Schouten, *Private Security Companies and Political Order in Congo*.

¹⁰⁴ Khadiagala, “Global and Regional Mechanisms for Governing the Resource Curse in Africa,” 24.

¹⁰⁵ For a more in depth look at supply chain issues such as rent seeking, involvement of public officials and lack of transparency at both origin and smelting/production in China and south east Asia see Bleischwitz, Dittrich, and Pierdicca, “Illicit Trade with Coltan and Implications for Certification,” 168–70.

¹⁰⁶ For a full definition of the mineral supply chain from the OECD: “The process of bringing a raw mineral to the consumer market involves multiple actors and generally includes the extraction, transport, handling, trading, processing, smelting, refining and alloying, manufacturing and sale of end product. The term supply chain refers to the system of all the activities, organisations, actors, technology, information, resources and services involved in moving the mineral from the extraction site downstream to its incorporation in the final product for end consumers,” OECD, *OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas*, Second Edition:14.

¹⁰⁷ Autesserre, “Dangerous Tales: Dominant Narratives on the Congo and Their Unintended Consequences,” 213.

¹⁰⁸ Collier and Hoeffler, “Greed and Grievance in Civil War.”

¹⁰⁹ Khadiagala, “Global and Regional Mechanisms for Governing the Resource Curse in Africa,” 23.

While regulation is meant generally as a positive mechanism of control, it is also about power and legitimacy and by allowing hybrid governance it is a means of securing access to resources and wealth. This begs the question, how is regulative control a part of regimes of extraction? Over past regimes of extraction, there are temporal shifting points which coincide with national and international regulation. For example, the point of ASM liberalization in 1983 is a recent event which was a product of international pressure from the International Monetary Fund (IMF) on Mobutu to comply with the structural adjustment programs which were a development policy of the time.¹¹⁰ Besides structural adjustment programs, there are other regulative mechanisms and even national legislature such as the Dodd Frank Act or EU regulations on conflict minerals which influence and direct extractive regimes.

Despite various levels of regulation, there is a lack of regulatory monopoly in the spaces of extraction. The African Progress Report of 2013 revealed the troubling truth that between 2010 and 2012 the DRC lost over 1.36 billion USD in the undervaluation of assets sold to international investors in 'highly opaque and secretive deals'¹¹¹ This opacity and corruption is linked indirectly to governance or lack of governance by the central state and simultaneously allows governance by international actors and corporations. Unfortunately, regulation which is meant to curb excessive impulses of national leadership and MNCs often disproportionately affects the very people who have the least to lose: artisanal miners.¹¹² One example of a regulatory body which plays an important role, but which I do not discuss at length are sanctions. For a recent example, the US State Department put Dan Gertler on the sanctions list in December 2017 for his involvement in the widespread corruption of the sale of mining concessions under both Kabila presidencies, in a sweeping action to sanction the 'human rights abusers and corrupt actors across the globe.'¹¹³ Many of the companies operating in DRC have, or are under sanction or on sanctions watchlists and while there may not be an immediate amelioration of the situation by imposing sanctions, they could eventually change the normative environment of extractive regimes.

DRC Mining Codes of 2002 and 2018

The current extractive regime is regulated by the 2002 mining code. In march 2018 this code was revised leading to several implications which are all mitigated by the fact that the government will engage with stakeholders and review the applicability of the new regulations on a case by case basis.¹¹⁴ An impact investor working extensively in the DRC that I spoke with noted that this means the new regulations will only come into play if the government sees fit and will exclude many corporations with which the government works closely. New mining code details include increase of copper royalties from 2% to 3.5% and gold from 2.5% to 3.5% and if cobalt is deemed a 'strategic substance' the royalty could jump from 2% to 10%. There is also a new tax on 'superprofits' 'defined as income realized when commodity prices rise 25% above levels in the project's bankable feasibility study.'¹¹⁵ There is also a doubling of the state's share of mining projects from 5% to 10% and reduction of guaranteed contract stability of projects from 10 years to five.

¹¹⁰ Vogel and Musamba, "Brokers of Crisis," 575.

¹¹¹ Khadiagala, "Global and Regional Mechanisms for Governing the Resource Curse in Africa," 24.

¹¹² Kelly, "'This Mine Has Become Our Farmland': Critical Perspectives on the Coevolution of Artisanal Mining and Conflict in the Democratic Republic of the Congo," 100.

¹¹³ "United States Sanctions Human Rights Abusers and Corrupt Actors Across the Globe."

¹¹⁴ Vuuren, "New DRC Mining Code Will Not Alter Positive Outlook."

¹¹⁵ Vuuren.

Despite growing risk and possible increases of the cost of mining in the DRC, the country still remains one of the most competitive points of entry to the market, particularly on copper, cobalt and gold, and there is little foreseeable shift in the investment opportunity for production.¹¹⁶ Again despite the restrictions, a February 2018 Economist article points out that the new mining code could be the lesser of two very tough situations for MNCs operating in the DRC. Because of the opacity and corruption surrounding the most recent regime of international exploitation of Congolese resources under Laurent Desire Kabila (father to the current Kabila regime) if there were to be a new president outside of the Kabila family, all of the concessions sold through shady back-door deals (many of which include Dan Gertler) could be ‘up for grabs.’¹¹⁷ There has already been pushback from several international mining corporations on the 2018 mining code, for example, Randgold has said that they would pursue legal action to ensure that their contracts remained stable for the duration of the pre-revised schedule. The way in which companies have dealt with the new mining code, by formally proposing revisions within weeks of its ratification, is another example of how corporations not only engage in governance practices, but they overtly engage in attempting to influence and change the regulations on a national level.¹¹⁸ Many companies felt threatened by the new mining codes signed in by Kabila in March 2018, and the result was an attempt to influence not only the laws but how they are applied.

Besides the 2002 and 2018 mining codes there is the Lusaka declaration of 2010 which confirmed a regional initiative aimed at fighting against the illegal exploitation of mineral resources which now integrated into the DRC’s legal framework. This is to say that technically the OECD guidance discussed in the next section on elective regulative mechanisms is redundant in that it is already incorporated into DRC law. However, the additional pressure from international regulative bodies is very important because due to the lack of clear guidance, rule of law and governance within the DRC it is clear that further measures are needed to control and guide the regime of resource governance if it is to have a more positive contribution to the country as a whole.

Dodd Frank Act 1502 and 1504

The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 – in particular the two sections designed to encourage transparency in foreign supply chains (1502 and 1504) was intended to hamper the trade of conflict minerals from the DRC. Besides complaints of policy implementation without a clear or comprehensive picture of the issues at hand,¹¹⁹ the Dodd Frank Act was connected to numerous reports and articles on the *de facto* embargo on minerals coming from the DRC and the mining ban instituted by Kabila which ran from September 2010 to March 2011 putting the livelihood of miners and their families at risk.¹²⁰ Ultimately, 1502 required companies to report annually on the use of minerals originating in the DRC specifically as well as fully report on the due diligence steps undertaken to avoid sourcing conflict minerals. Section 1504 does not single out the DRC, but rather requires publicly traded oil, gas and mining companies to disclose payments over 100,000 USD on projects related to commercially developed resource extraction.¹²¹

Immediately after the Act was signed into effect by Congress, there was pushback from companies attempting to change the nature and extent of the regulation.¹²² Claims against it were made ranging from the cost of compliance to the discrimination against companies from buying

¹¹⁶ Vuuren.

¹¹⁷ “They Don’t Dig It.”

¹¹⁸ “DR Congo.”

¹¹⁹ Seay, “What’s Wrong with Dodd-Frank 1502?,” 6.

¹²⁰ Seay, 14.

¹²¹ Khadiagala, “Global and Regional Mechanisms for Governing the Resource Curse in Africa,” 35.

¹²² Phezo Dizolele, “Dodd-Frank 1502 and the Congo Crisis.”

exploration permits in countries that did not wish to have publicly disclosed contracts.¹²³ Furthermore, there was a distinct lack of key stakeholder engagement in the writing of the act, 'in a rare submission by eastern DRC stakeholders, three heads of mining cooperatives, claiming support by high-level officials in North Kivu, complain that the local population has not been consulted on the US legislation.'¹²⁴ When the Act was so clearly geared towards alleviating the situation in the eastern DRC mining communities, it is bizarre that there was little if any meaningful engagement with the communities it was meant to be aiding. Further to the *de facto* embargo and mining ban, the Act also has the unintended consequences of increasing militarization of mines¹²⁵ which is clearly opposite to the intention, but a result of not understanding the full socio-political context. On 8 June 2017 the US House of Representatives voted to overturn the legislation, section 1502 included, and there was never the full extent of reporting required in the seven years the law was in place.¹²⁶ On a positive note, the failure of Dodd Frank could have given companies a taste of what to expect in forthcoming and better aligned legislation, making compliance easier and the process generally smoother.

EU Regulation 2017/821

EU Regulation 2017/821, hereafter the Regulation, adopted in May 2017 and fully functional by 2021 lays down supply chain due diligence for EU importers of tin, tantalum and tungsten, their ores and gold originating from conflict-affected and high-risk areas.¹²⁷ This Regulation, described as smart legislation by the OECD secretariat, has, unlike Dodd Frank and previous EU attempts, aligned with the other regulations and guidance of the same sort in order to work towards a common goal of due diligence reporting. Based on extensive stakeholder engagement and in conjunction with OECD, the UN Group of Experts on the DRC and the UN Voluntary Principles, the Regulation could indeed have the added benefit of obliging EU member states to take compliance into account. It will be interesting to see over the next few years given the combined changes of the new DRC mining code and the Regulation, how they will, in combination, affect regimes of resource governance.

3.3.2 Elective Regulation

There are lots of sources of information and guidance on voluntary responsible sourcing and supply chain transparency initiatives – besides the well-known and fairly obvious protocols such as the OECD and the UN Sourcing guidelines there are organizations such as the Responsible Minerals Initiative (RMI),¹²⁸ coalitions of civil society stakeholders such as Publish What You Pay (PWYP) and the international Council on Mining and Metals (ICMM). These and others are aligned initiatives with the OECD Due Diligence Guidance, however, there is a common issue. These are all voluntary principles not legally enforceable or binding. Furthermore, in a geographically isolated place such as eastern DRC, there are very few guarantees that there will be any monitoring or reporting on whether or not due diligence is applied. Elective regulative practices are regimes of restraint,¹²⁹ which have largely been dysfunctional given the actors who need to show restraint.

¹²³ Khadiagala, "Global and Regional Mechanisms for Governing the Resource Curse in Africa."

¹²⁴ Verbruggen, Francq, and Cuvelier, "Guide to Current Mining Reform Initiatives in Eastern DRC," 11.

¹²⁵ Seay, "Is Congo's Mineral Trade Really the Key to the Country's Conflict?"

¹²⁶ Phezo Dizolele, "Dodd-Frank 1502 and the Congo Crisis."

¹²⁷ Regulation (EU) 2017/821 of the European Parliament and of the Council of 17 May 2017 laying down supply chain due diligence obligations for Union importers of tin, tantalum and tungsten, their ores, and gold originating from conflict-affected and high-risk areas.

¹²⁸ Formerly the Conflict-Free Sourcing Initiative "Responsible Minerals Initiative RMI."

¹²⁹ For a further description of "regimes of constraint" which is a fascinating concept within the resource governance discussion see Khadiagala, "Global and Regional Mechanisms for Governing the Resource Curse in Africa," 24–25.

The lending institutions which fund the extractive industries are another point able to exert regulatory control. Because the development of LSM mines is so capital intensive, it is normally either a very large corporation, or a corporation in conjunction with a financial institution which fund the exploration and development.¹³⁰ Furthermore, MNC's generally self-regulate beyond what is legally required. This falls in the category of Corporate Social Responsibility (CSR) which is an elective component of corporate governance – a growing literature on the role of governance mechanisms in Sustainable Supply Chain Management is discussed by Formentini and Taticchi. They argue that there is little empirical evidence of the efficacy with which corporate sustainability strategies are translated into practice or aligned with the real governance mechanisms at play.¹³¹ This is of real importance in the context of the DRC, because of lacking state and international regulation, there is a need for self-regulation on the part of MNCs involved in extraction. However, the extent to which this is done is highly debated and will be discussed in Chapter Four due to the social nature of CSR governance.

Over time, with a continued focus on transparency little has changed in reality, this is described by Khadiagala as the 'transparency fixation.' First of all, increasing transparency does not necessarily lead to improved accountability, secondly, most international initiatives focus on revenue transparency not expenditure, which does little to mitigate issues commonly associated with the resource curse. Thirdly, the transparency initiatives are commonly aimed at addressing governance issues in countries which are not likely or interested in accepting or submitting to pressure from the international community. Thus, the very countries that need better governance are unlikely to follow the initiatives aimed at instituting transparency.¹³² There is a common misunderstanding of the role of the state in implementing governance practices which has led to unhelpful and even destructive policy.¹³³ This is the continual focus on regulation through the central state's governance mechanism, which have already proved to be fluid and unpredictable. Therefore, using an idea of governance which applies to more actors than just the central state and the rebel and military groups, it is possible to conceptualize a broader strategy for resource governance which holds corporations accountable through mechanisms outside of the central state.

Extractive Industries Transparency Initiative (EITI)

Built with the intention of mitigating the resource curse, the EITI regulations require full disclosure of all payments made to governments in the oil, gas and mining industries. However, the DRC's EITI membership was suspended in 2013, and the EITI chairperson, Clare Short noted that: "The DRC still receives shockingly little for its mineral resources. It is not surprising that there are great challenges for the DRC to produce reliable and comprehensive EITI reports."¹³⁴ While EITI is heavily dependent on a level of transparency that we are unlikely to see in the DRC in the near future, there has been some significant progress on the compliance with EITI Guidelines as published in the *Rapport Annuel d'Avancement* for 2017 and the beginning of 2018.¹³⁵ Since 2005 the DRC has gone in and out of compliance with the EITI, in July 2018 DRC is listed as compliant based on the most recent annual report. One additional thing to note it that the EITI website on the DRC does a good job of linking the available information on the extractives, I was able to access the mining and tax law, the available contracts and EITI reports.

¹³⁰ "NRGI Reader"; Pelon and Walser, "Working Together, How Large-Scale Mining Can Engage with ASM."

¹³¹ Formentini and Taticchi, "Corporate Sustainability Approaches and Governance Mechanisms in Sustainable Supply Chain Management," 1920.

¹³² Khadiagala, "Global and Regional Mechanisms for Governing the Resource Curse in Africa," 26.

¹³³ Seay, "What's Wrong with Dodd-Frank 1502?," 19.

¹³⁴ Khadiagala, "Global and Regional Mechanisms for Governing the Resource Curse in Africa," 31.

¹³⁵ Comité Exécutif, "Rapport Annuel d'Avancement 2017 à publier version final."

OECD Due Diligence Guidance

The OECD Due Diligence¹³⁶ Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (hereafter the Guidance) was published originally in 2011 following cooperation between multiple stakeholders including the eleven participants of the International Conference on the Great Lakes Region, the UN council of Experts and the OECD. The guidelines are designed to help corporations comply with responsible sourcing of natural resources in a conflict sensitive and transparent manner. While looked at as a progressive standard and often used as the standard for industry alignment of regulations, in the context of the DRC there are several simple flaws. As noted in the Guidance itself, ‘observance of this Guidance is voluntary and not legally enforceable.’¹³⁷ While technically the corporation’s country of origin should enforce the guidance if they are an OECD member state, in many cases, this is not an effective policy because of lacking knowledge and tools to do so. There are many critiques based on the fact that OECD guidance largely relies on robust state institutions within the host country – this is an element largely absent in the DRC, making the effectiveness of the regulation questionable. Furthermore, the complaints mechanisms, or OECD National Contact Points (NCPs) are found in the member and adherent countries – not in the DRC. This makes it difficult for complaints to be filed as the NCPs responsible are generally in Canada, the US and Europe. Between 2002 and 2017 16 complaints about mining projects in the DRC were filed through NCPs, and while this is better than zero, I am sure it is far from all of the viable grievances. However, as a tool for aligning industry initiatives and creating a cohesive vision for due diligence in the industry and region, the OECD Guidance on stakeholder engagement and due diligence is a great start, but the issue of its implementation remains.¹³⁸

3.4 Geography of Extraction

In the postcolonial frontier there is a strong spatial or geographic element to the political economy¹³⁹ of extraction. In conceptualizing zones of extraction on a geographic level, it is interesting to think about the frontier which dominates Western conceptualizations of the remote reaches of central Africa, both in a colonial and ‘modern’ mindset. Graham Harrison speaks eloquently about the frontiers of Africa: ‘Once we recognize the sovereign frontier as a dynamic zone of political intervention, driven by a longer project of Western expansion, we gain a further insight into the nature of the frontier.’¹⁴⁰ The concept of a frontier as a space to be subdued, a ‘zone of expansion’ may well be used in the logics of extraction.¹⁴¹

Infrastructure in the DRC has been planned to facilitate extraction – in the colonial era it was particularly suited for this and now there are pockets of extraction (for example Kibali Gold Mine) where a sovereign zone exports gold without involvement in the surrounding area. For the political elite of Kinshasa and for MNCs, the zones of resource wealth are akin to the frontiers of

¹³⁶ Definition of due diligence OECD quoted in Verbruggen: “Due diligence is an on-going, proactive and reactive process through which companies can ensure that they respect human rights and do not contribute to conflict. Due diligence can also help companies ensure they observe international law and comply with domestic laws, including those governing the illicit trade in minerals and United Nations sanctions. Risk-based due diligence refers to the steps companies should take to identify and address actual or potential risks in order to prevent or mitigate adverse impacts associated with their activities or sourcing decisions.” Verbruggen, Francq, and Cuvelier, “Guide to Current Mining Reform Initiatives in Eastern DRC,” 7.

¹³⁷ OECD, *OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas*, Second Edition:16.

¹³⁸ For further reading on industry initiatives such as the ITSCI or Conflict Free Smelter Initiative and industry alignment with OECD Guidance see: <http://mneguidelines.oecd.org/industry-initiatives-alignment-assessment.htm> and for stakeholder engagement guidance by the OECD see: OECD, *OECD Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector*.

¹³⁹ Douma, “The Political Economy of Internal Conflict.”

¹⁴⁰ Harrison, “Debt, Development and Intervention in Africa: The Contours of a Sovereign Frontier,” 198.

¹⁴¹ Harrison, 198.

the colonial era. A zone of expansion with a permeable exterior to be subordinated and later incorporated. This phenomenon can also be discussed as the archipelization of production, where the useful enclaves are spread across and detached from the economically 'useless' spaces in between.¹⁴² This concept is particularly relevant when looking at the geography of the great lakes region and eastern DRC. There are great swaths of land increasingly divided into mining concessions governed by the international corporations who have negotiated access to them.¹⁴³ In discussing Mobutu's near hegemonic control of Zaire which always fell short of geographically complete, T.M. Callaghy described Mobutu's control as an archipelago formation 'like a group of islands of control and extraction which keep the stumbling system alive by focusing on the most important and most easily profitable forms and locations of resource pillage.'¹⁴⁴

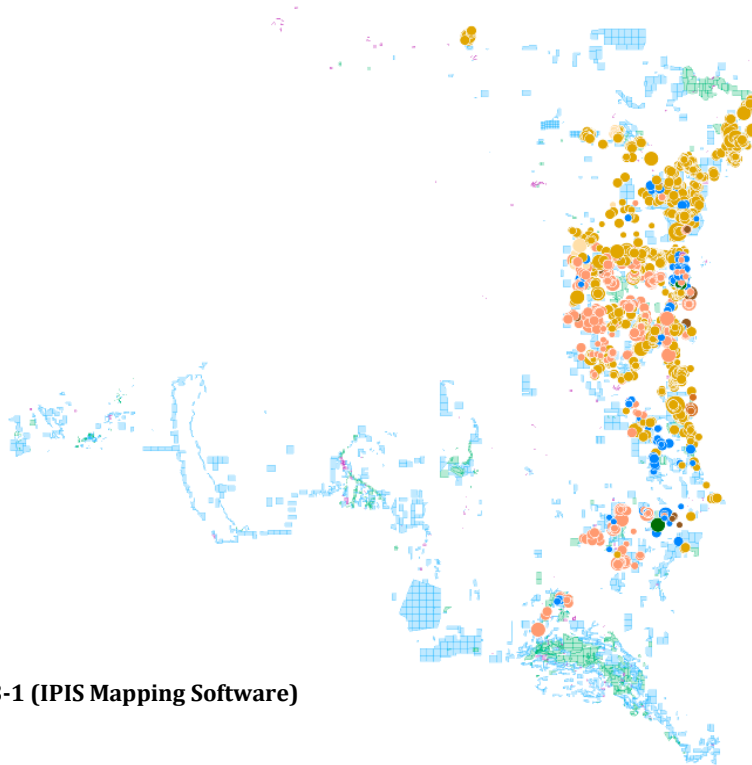


Figure 3-1 (IPIS Mapping Software)

In Figure 3-1 we see a 'zoomed out' view of the archipelago state.¹⁴⁵ This map shows the mining concessions and active artisanal and industrial mine sites across the DRC, these are the zones of extraction that feed economic growth – but not in these frontiers which remain largely symbolic as a tool for extraction. These are the areas of inclusion and exclusion that mark the mining industry. The profits are made elsewhere. These zones of extraction are however linked to the zones of consumption, so they are not isolated frontiers but rather interconnected webs that link extraction to the ability to consume in the rest of the world. In the DRC, the difference is notable – the extraction happens in the periphery of the country, while the profit is made in the populated parts of the country. It is easy to see this divide when comparing figure 3-1 to figure 3-2 which shows not the mine sites but spread of the population.

¹⁴² Hönke, "New Political Topographies. Mining Companies and Indirect Discharge in Southern Katanga (DRC)," 108.

¹⁴³ Schouten, "Extractive Orders: A Political Geography of Public Authority in Ituri, DR Congo," 8–9.

¹⁴⁴ T.M. Callaghy, from *reshaping or resizing a failing state? The case of Congo/Zaire*, in Tull, "A Reconfiguration of Political Order?," 445.

¹⁴⁵ "IPIS Webmapping DR Congo."

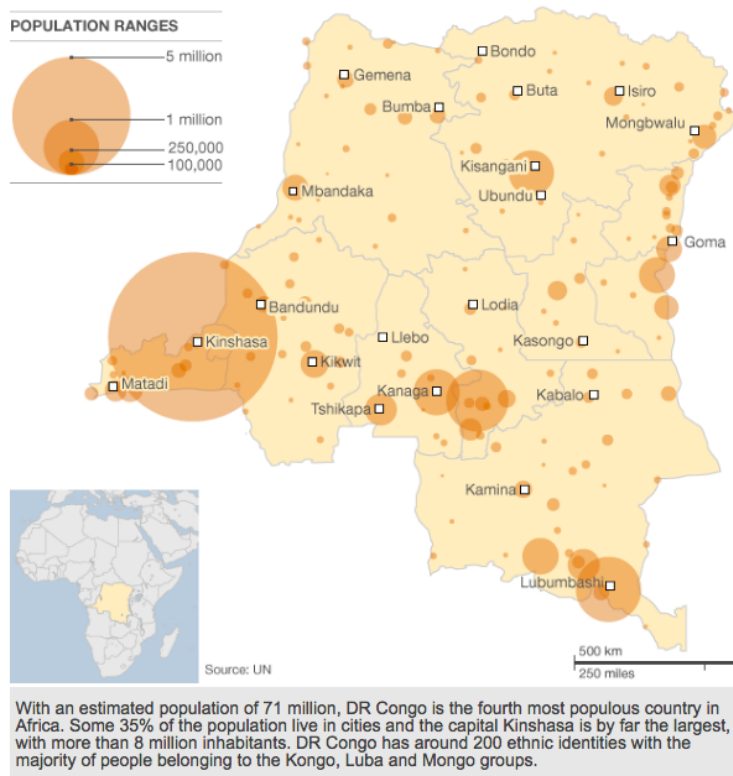


Figure 3-2
(DRC in Population – BBC)¹⁴⁶

The infrastructure of extraction is yet another extremely interesting facet of the workings of postcolonial resource rich states. One informant that I spoke to talked about how much infrastructure had been left abandoned to fall into dilapidation, especially concentrated around mineral rich areas such as *Haute Katanga*. This is continued in the current extractive mechanisms – corporations build a certain amount of infrastructure on and around their concession in order to facilitate the extraction of resources – this is where the line often blurs between investment and exploitation. However, it is worth weighing the value of this infrastructure in the short term in communities that have much more pressing vital needs.

3.5 Conclusions: Governance & Regulation

I have established a context of hybrid governance in the DRC stemming from lacking state legitimacy. With this assumption, if we look at legitimacy as a process and hybrid governance as a continually negotiated phenomenon,¹⁴⁷ then regulatory authority is the outcome of these negotiations. Relating largely to power,¹⁴⁸ regulation can be seen as a function of the state, or as a likewise negotiated function of governance and extraction whether by state or non-state actors. Because of their quasi-legitimate nature, formal and informal regulations can be the source of empirical evidence of the operative mechanisms of extractive industries. In the DRC there are sites of contested legitimacy as well as contestation over regulative authority. Without clear alignment and enforcement of regulation by the international community and the DRC itself, there is unlikely to be a significant positive change stemming from proliferation of new regulative guidance. The various mandatory and voluntary regulations discussed previously are based on both technical and market centric understandings to catalyze social change in a region that is often neither market centric nor technical. The goal of course is to de-link violence and mineral exploitation in the region, but these regulations ‘partly fail to account for the complexity of violent conflict. In prioritizing the role of minerals, they eclipse root causes such as continuing contestation over political power, citizenship and land access, as under- lined by the recent multiplication and fragmentation of armed groups in eastern DRC.’¹⁴⁹ This is where a broader understanding of what governance is, and who is involved in governing in the region, could take into account the complexity of the situation and the ways in which the regimes of extraction are

¹⁴⁶ “Fighting ‘empties’ DR Congo Town.”

¹⁴⁷ Titeca and Flynn, “Hybrid Governance, Legitimacy, and (II) Legality in the Informal Cross-Border Trade in Panyimur, Northwest Uganda,” 74-75,80.

¹⁴⁸ Titeca and Flynn, 85; Meagher, “Smuggling Ideologies: From Criminalization to Hybrid Governance in African Clandestine Economies.”

¹⁴⁹ Vogel and Musamba, “Brokers of Crisis,” 578.

legitimized by the very logics of regulative control. Perhaps the problem is not the regulations but how they are implemented and negotiated on the ground in the context of the systems of governance in the DRC. While the alignment of DRC national law and the OECD is theoretically strong, empirically there are contrasting behaviors which do not account for the legislation in place, yet which are still seen as legitimate internally and externally.

Furthermore it is important to take note of the actor being regulated – there is a lot of discussion revolving around the *illegal* exploitation of resources in the DRC, indeed it was over a decade after the UN security council first stated their concerns about the illegal cross-border mineral trade in the eastern DRC before international organizations began to question the role of corporations in the extractive industry of the DRC.¹⁵⁰ Due to the overwhelming majority of economic transaction that takes place illicitly in the DRC – only 20% of financial transactions in the DRC are done legally through Banks, according to the UN Group of Experts Report of December 2017¹⁵¹ – it may seem like regulating corporations is the smallest part of the issue. However, the presence and role of international actors in the ongoing exploitation of resources in the DRC continues to be important on any level because of the legacy of these actions. Despite changes of regulation, the same practices of extraction are taking place throughout the history of DRC. The lack of regulatory authority in the DRC is due in part to the pervasive corruption within nearly every facet of state institutions as well as the participation of international actors in corruption – either knowingly or not. The postcolonial cold-war era was an important building block to the modern economic system as it stands today; as Graham Harrison notes: ‘structural adjustment served to lock African states into an emerging global consensus about economic policy which was applied throughout the postcolonial and post-Soviet world.’¹⁵² MNCs and their actions in the DRC on a regulative and spatial level must be considered in their contribution to colonial legacy and how proxy governance is perceived, legitimized and institutionalized. Extraction taking place in the DRC should be regulated and built to be a key component of the development of the DRC from within, not controlled by power and economic transactions taking place outside and beyond the regulative control of the DRC and far removed from the zones of extraction.

¹⁵⁰ Verbruggen, Francq, and Cuvelier, “Guide to Current Mining Reform Initiatives in Eastern DRC,” 6.

¹⁵¹ Behalal et al., “Letter Dated 22 December 2017 from the Group of Experts in the Democratic Republic of the Congo Addressed to the President of the Security Council,” 15.

¹⁵² Harrison, “Debt, Development and Intervention in Africa: The Contours of a Sovereign Frontier,” 200.

4 MULTINATIONAL MINING CORPORATIONS, RESOURCE GOVERNANCE & SOCIETY

According to the UN Human Development Report, the DRC consistently ranks as one of the lowest in the world.¹⁵³ Theoretically this only leaves room for improvement. However, I will explore the sentiment that there are certain actors, multinational mining companies among them, which do not want the situation to change. The very entities which claim to be agents of positive change, are profiting from the stagnation of development and there is a refusal across the board to reconceptualize the DRC as anything but a zone of extraction. There is a disconnect at the local level between the most disenfranchised community members and the local leadership creating a context of distrust. Study participants in South Kivu noted the lack of social cohesion and felt that they were not allowed agency by the leadership on a local or national level in relation to their own political, social and economic lives.¹⁵⁴ Furthermore, even the conceptually positive idea of 'investment' has counterintuitive meanings, while investments can be made to serve long term objectives and aid local development, all too often investment can be a 'euphemism for more effective extraction.'¹⁵⁵ In looking at how MNCs are involved with negotiating legitimacy through the provision of services, we must keep in mind that investment in this context can also be a way of legitimizing governance and control of resources.

On a national level, the Kinshasa government and political elites are consistently offloading public authority and infrastructure/development obligations onto mining corporations 'Congolese elites in Kinshasa and Kisangani are quick to put the weight of their legal monopoly and security forces behind the interests of industrial mining firms, since those constitute a direct link to a steady source of taxation.'¹⁵⁶ This discharge of obligations allows Congolese elites to profit from resource rents neglecting development and public services. 'In effect, mining camps in Congo are examples of 'pockets of productivity' where, as during colonial times, public and private logics dilute and blend, and elements of the Congolese state are selectively effective, enmeshed in complex agentic networks with corporations.'¹⁵⁷ This selective effectiveness of state institutions mixed with the provision of services by international corporations builds a resource governance regime which mixes public and private issues. This can be seen by the effectiveness with which corporations and the state do and do not provide public goods.

4.1 International Perceptions

Autesserre discusses the international perceptions of the conflict and governance in the DRC, claiming that the public discourse revolves around just three narratives – violence stemming from illegal mineral exploitation, which leads to the main consequence of sexual violence against girls and women all of which is solved by an extension of state authority.¹⁵⁸ This is an oversimplification of the violence, consequences and solution which leads to well-meaning but ill-advised policy on the DRC. Beyond critiques of liberal peacebuilding, Autesserre critiques development and humanitarian campaigns, NGO campaigns and despite some success in establishing a tentative peace, the UN. Because the three dominant narratives are so simple, it is appealing from both a policy and media perspective, the unintended effects of focusing on these dominant narratives have even contributed to the deteriorating situation. Organizations have

¹⁵³ United Nations Development Programme, *Human Development Report 2016*.

¹⁵⁴ Kelly, "'This Mine Has Become Our Farmland': Critical Perspectives on the Coevolution of Artisanal Mining and Conflict in the Democratic Republic of the Congo," 105.

¹⁵⁵ Newbury, "The Continuing Process of Decolonization in the Congo," 137.

¹⁵⁶ Kudithshini 2008 in Schouten, "International Mining Corporations and Socio-Political Conflict in the DRC," 10.

¹⁵⁷ Leonard 2008 and cf Kawu 2013, pg 40 in Schouten, "Extractive Orders: A Political Geography of Public Authority in Ituri, DR Congo," 10.

¹⁵⁸ Autesserre, "Dangerous Tales: Dominant Narratives on the Congo and Their Unintended Consequences," 202.

been pigeon-holed into addressing the three dominant narratives and thus by focusing on one category of victims (women and girls) regulating the one aggravation of conflict – illegal mineral trade and channeling all hope of reconstruction into helping the central state extend and pronounce its authority. Because of this focus, the world has forgotten all the other victims, aggravations and solutions to this multidimensional problem.¹⁵⁹ While it is true that women are disproportionately exploited in the mining sector¹⁶⁰ and there has been a methodological use of rape as a weapon of war, it does not do justice to the complexity of the conflict, or the other victims involved.

While ‘hot topics’ related to child labor in mines, blood diamonds, coltan in cell phones or cobalt in electric car batteries, help shape public opinion, I had an interviewee who works in impact investing in the DRC and said that these topics are often exploited by NGOs because of their popularity. Public opinion has altered the course of governance in the DRC on more than one occasion, the Congo Reform Association (CRA) was led by Edmund Morel,¹⁶¹ a shipping clerk who managed to put together the evidence of exploitation of King Leopold by contrasting the content of the shipments headed for Leopoldville, which consisted primarily of equipment and ammunition, compared to the vast amounts of ivory and rubber that were being shipped back.¹⁶² When he realized the level of the exploitation taking place, he helped begin the campaign that would successfully mobilize public opinion. While it is important to remember the impact that the public opinion in the zones of consumption have, there needs to be a willingness to mobilize along more than one fault line at a time, due to the complexity and pervasiveness of extractive regimes in the DRC, boycotting a single element, such as coltan or diamonds, will not impact the overall situation.

The DRC had been plagued by bad governance from Leopold to today – and the Kabila presidency is no exception. While Mobutu’s excesses are well known as he practically became famous for his dictatorial accumulation of wealth at the expense of his country, Joseph Kabila has also amassed a family fortune from the resources of his country. Kabila’s wife, children and siblings control over 120 mining permits and are the beneficial owners of at least 70 companies, bringing hundreds of millions of dollars to the family. While DRC law does not make it illegal for the presidential family to own and operate businesses, there is evidence from Bloomberg News and the Pulitzer Center on Crisis Reporting which shows that the Kabila family businesses are diverting money, for example the UN rent payments for a police station, into their own complex business network.¹⁶³ This engrained history of corruption in the governance practices of the DRC illustrate the lack of significant change over the history of extractive regimes.

4.2 Corporate Citizenship

Even the idea of good governance is subjective which leads to a discrepancy between what a company would deem good corporate citizenship in Europe versus the same corporation’s actions in the DRC. Along this line of theory versus practice, there is an overall sentiment among the people I spoke with who feel as though companies operate in the DRC with much less care and accountability than they would in another region. This could in part be because of the weak regulative framework in the DRC, or because good governance only matters when the people being governed matter – in zones of extraction it is the resources which take precedent over

¹⁵⁹ Autesserre, 205.

¹⁶⁰ Matundu Mbambi, “Enquête sur les violations des Droits Humains subies par les femmes congolaises dans l’exploitation des mines artisanales dans la province du Haut Katanga.”

¹⁶¹ Nzongola-Ntalaja, *The Congo*, 24.

¹⁶² Morel became suspicious when he realized how much equipment of war was being shipped to the Congo Free State, and more so when he realized that there was a large discrepancy between the official trade statistics and the reality of the quantity of rubber and ivory imported, the surplus was estimated to “tens of millions of today’s dollars” Hochschild, *King Leopold’s Ghost*, 179–80.

¹⁶³ Kavanagh, Wilson, and Wild, “REVEALED.”

human life and dignity. Furthermore, it is understandably difficult to run CSR and humanitarian programs in a context where very little is provided by the state itself. According to the 2013 report by the Sustainable Development Solutions Network, companies should be very careful not to act as a substitute of the state. The implementation of social projects by companies should always be carried out through the state and there should be community engagement at all steps of the development process.¹⁶⁴ The question remains, how does this work when the state is uninterested and unable to carry out the planning or implementation of social projects? In a region where there is a strong social contract between the government and the population, perhaps mining companies would not need to engage in a social contract. However, in the case of the DRC, this seems to be exactly what has happened and it is important to explore social contract as an aspect of hybrid governance.

Literature on CSR and Corporate Citizenship¹⁶⁵ is interesting in the context of this research in that it provides a framework for how corporations should theoretically engage in 'good corporate governance' in the areas where they operate. Engagement with employees, stakeholders and community members are outlined in Carroll's seminal piece *The Four Faces of Corporate Citizenship*. Using this literature as a starting point, we will explore how CSR related tasks and opportunities often shift mechanisms and components of governance from the state to the corporation. Carroll states that companies should engage in corporate citizenship which he summarizes in four distinct but interconnected faces. The economic, legal, ethical and philanthropic faces, which, in plain English refer to the fact that corporations need to follow the law (legal), be profitable (economic), be ethical and give back somehow through philanthropic means.¹⁶⁶ While there is significant overlap between the ethical and legal spheres, Carroll suggests that there is the need to go beyond the simplest codified ethics of following the law and strive to be good corporate citizens. Although there is immeasurable nuance on the subject of good or bad corporate citizens and the complexity of the international legal and ethical framework these corporations navigate, the important point is that corporations are involved intimately in each context where they operate, and they are compelled to engage in a level of citizenship. Many mining companies operating in the DRC do engage in some of the above activities, but there is the remaining question of whether they use their involvement as a means of legitimizing their role in extractive governance.

One of the key points of corporate citizenship being an agent for positive change rather than a formula of CSR good practice is the level of community engagement practiced. In the context of eastern DRC, (il)legality is often placed in secondary importance to the functioning of hybrid institutions of governance,¹⁶⁷ thus there is significant complication in terms of the legal/ethical faces of corporate citizenship in the negotiation of legitimacy stemming from the context in which the continual negotiation takes place. Community outreach could theoretically help in the decision-making process for companies to better engage and fulfill their duties as corporate citizens, but again, the context of the DRC has made it difficult to do this in a meaningful way. For example, community engagement has been a pillar of UN and humanitarian operations in the region for many years, and yet there is a sense of distrust between what is offered by the international community and what is actually provided. One of my contacts told a story of how UN officials would historically arrive in a village, take a list of what local people said that they wanted (bicycle, farming equipment, medications etc.) and then disappear. Years later these communities would still be waiting for the arrival of their wish list. Now this might seem like an over simplified example, but in many cases of community engagement by corporations a similar thing happens. The management of expectations needs to take a leading role in how local

¹⁶⁴ Cust et al., "Harnessing Natural Resources for Sustainable Development: Challenges and Solutions," 20–21.

¹⁶⁵ Carroll, "The Four Faces of Corporate Citizenship."

¹⁶⁶ Carroll, 1–2.

¹⁶⁷ Titeca and Flynn, "'Hybrid Governance,' Legitimacy, and (Il)Legality in the Informal Cross-Border Trade in Panyimur, Northwest Uganda," 76.

communities are engaged and an even bigger shift needs to take place on what corporations are expected to provide and how they are expected to act.

4.3 Social Welfare & Hybrid Resource Governance

In the context of the mining industry having negative impacts on the social welfare of communities in the zones of extraction, it is important to discuss if and how grievances are addressed on a local and national level as well as by mining companies themselves. In the Kivu provinces and remote regions of the DRC, connectivity is low, as is the knowledge and understanding of mechanisms for addressing grievance. For example, the OECD gold baseline study in South Kivu notes that there is ‘little awareness or knowledge of the OECD Due Diligence Guidance’ within the mineral trading and artisanal mining communities. International corporations are better equipped with information, but that does not necessarily extend to the communities around the mine sites, unless there are proactive stakeholder engagement practices. This is reportedly improving, but there are still points to address. Some of the key grievances I was able to find through discussions with labor unions or by speaking to people who are involved either professionally or academically in the industry are workers’ rights and discrimination against local mine workers, land rights issues, abuse of labor, for example unequal pay, child labor and more. Most of the cases I found are not from the Kivu provinces, or Ituri, but following a common thread across the resource rich eastern DRC, we can expect to see similar grievances and responses across the region.

Land rights issues stem from both the unequal distribution of mineral rich land and the limited alternative livelihoods. With the concessions covering such a significant part of the land in the Kivu Provinces, it makes it difficult or impossible for communities to invest in longer term returns such as farming without tenure rights. This is because there is a disconnect between local understandings of land ownership and what the government claims access to, leading to conflicts over who actually has land rights.¹⁶⁸ While several sources have confirmed that there is a payment for land if it is sold as a concession, the possibility of relocation does not make people comfortable investing in land they might have to leave.¹⁶⁹ Furthermore, without improved trust in the government, any proposed land rights are unlikely to be taken seriously so this symptom of the extractive regime will continue. ‘Despite fertile soil and plentiful water, there is fierce competition for land in the heavily populated green hills above Lake Kivu, as well as for lucrative mines where gold, coltan and other key commodities prized in the developed world are scratched from the ground by artisanal miners.’¹⁷⁰ Framing the dominant narratives on the issue in the DRC has justified particular policies and focalized a course of action. For example, the policy of regulating the mining sector has taken precedence over and even, according to Autesserre, precluded the equally important practice of resolving land conflicts.¹⁷¹ However, regulating the mining sector should, if done properly and with a broad scope of the issues, create more robust land rights.

The working conditions of mines are on a spectrum from bad to terrible in most cases. Besides the health impacts of working in mines, exposure to dust and mercury and other toxins, long hours, lack of sanitation and risk of diseases, there are more systemic problems of inequality and discrimination in practices of extraction. For example, the disproportionate risk of women and IDPs which are the populations with fewest community and economic connections and who

¹⁶⁸ “Final Report: Resilience Systems Analysis Eastern Democratic Republic of Congo.”

¹⁶⁹ Several interviewees confirmed that land rights were a serious issue to livelihoods and investment in eastern DRC Vogel and Musamba, “Brokers of Crisis,” 576; Kelly, ““This Mine Has Become Our Farmland”: Critical Perspectives on the Coevolution of Artisanal Mining and Conflict in the Democratic Republic of the Congo.”

¹⁷⁰ Masisi, ““The Wars Will Never Stop’ - Millions Flee Bloodshed as Congo Falls Apart.”

¹⁷¹ Autesserre, “Dangerous Tales: Dominant Narratives on the Congo and Their Unintended Consequences,” 207.

have the most difficulty in expressing grievances.¹⁷² There are different sets of grievances which arise in the ASM and LSM mining communities, ASM mine workers confront serious insecurity risks, the risk of their profits being illegally taxed by various groups, unstable working conditions and the grave risk of having their livelihood taken away. LSM workers have issues mostly related to the unequal power dynamic between the workers and the employers – often large multinational corporations. Many people noted that Congolese or ‘local’ employees are treated differently, receive a lower salary and are discriminated against for promotions or long-term work contracts. Furthermore, I was able to access a list of grievances presented to Glencore by workers which were never addressed. On this list grievances are expressed on issues of unequal pay for work, poor sanitary conditions, lack of access to healthcare and medication for work related injury and diseases as well as things such as not having potable water or sufficient food available for mine workers. While these working conditions would be considered appalling in most contexts, it seems to be the norm in the copper mines of Katanga. These miners also noted that the expatriate employees received different treatment and higher wages and were more likely to have benefits and long-term contracts. Issuing short term contracts seems to be used methodologically to avoid the provision of services and benefits to day laborers and short-term employees. With labor unions often outlawed and a context of poverty such that there are few options available to workers, this practice becomes a method of structural violence against employees which subjugates local populations and further disenfranchises them – even if they do have a job.

It is not just international corporations who engage in this behavior. Gécamines also had a policy of ‘optional severance’ between 1998 and 2003 in a World Bank financed *Opération Départ Volontaire* or ODV. Over 10,000 workers were essentially forced to resign, and the ‘voluntary’ severance package was hardly voluntary given that many of the workers had not received salaries in months and as a result had starved and children died of preventable diseases because they could not afford medication or healthcare.¹⁷³ This paternalistic economy of postcolonial DRC is referred to at length by Rubbers throughout the study of ex-Gécamine workers who had been essentially exiled by the company to poverty and suffering – there was a panel called in to question the legality of the ODV program, which the World Bank defended as fully legal despite the devastating consequences for over 10,000 employees and their families. This not only draws on colonial blueprints but uses the language of international law to justify the same paternalistic moral economy.¹⁷⁴

Another ongoing theme is the use of slavery for the purpose of extraction which resurfaces in literature from the colonial era and concerning the mining industry today. In Jocelyn Kelly’s 2014 study of ASM communities in South Kivu participants repeatedly ‘portrayed how power holders in the mining industry make the vast majority of profit, while on the ground laborers make barely enough to survive.’¹⁷⁵ The use and abuse of human labor is not new in the DRC, in fact much of the countries extractive enterprise has been built on widespread human rights and labor abuse.¹⁷⁶ In addition to the unequally distributed profits, ‘widespread corruption and fraud in the mining industry exacerbates this inequality. As a miner in Nyabibwe pointed out: ‘even when things were good and we were mining a lot, we got nothing, it’s always the big men who own the mine who profit, if you have your own minerals and can’t explain where they came

¹⁷² Kelly, “‘This Mine Has Become Our Farmland’: Critical Perspectives on the Coevolution of Artisanal Mining and Conflict in the Democratic Republic of the Congo,” 104.

¹⁷³ Rubbers, “Claiming Workers’ Rights in the Democratic Republic of Congo: The Case of the Collectif Des Ex-Agents de La Gécamines.”

¹⁷⁴ Rubbers, 340.

¹⁷⁵ Kelly, “‘This Mine Has Become Our Farmland’: Critical Perspectives on the Coevolution of Artisanal Mining and Conflict in the Democratic Republic of the Congo,” 106.

¹⁷⁶ Global Witness (Organization), *Digging in Corruption*; Elbagir, Van Heerden, and Mackintosh, “Cobalt Mining in Congo”; Hochschild, *King Leopold’s Ghost*.

from they will take it from you.’¹⁷⁷ In the peripheral zones of extraction, there is a profiteering mentality that reaches into the government, and indeed the international community. ‘Young women from Nyabibwe reaffirmed this, describing a hierarchical system of profits that excludes miners.’¹⁷⁸ This confirms the necessity of a deeper understanding of who is profiting from the mineral wealth in the DRC and in turn, who legitimizes the extractive regime.

According to the study conducted by Kelly, members of these mining communities nearly all agree that mining is overall beneficial in the community. Whether this stems from overall appreciation or necessity it is unclear. The miners are not the only ones who profit from the industry – nearly all of the livelihoods in mining areas rely either directly or indirectly on the economic source. Shopkeepers, traders, farmers and all other merchants are reliant on the money from mines to survive. ‘The mining system is described as inequitable to the point of being predatory. While there was recognition of the importance of mining as a vital source of income, it was also seen as dangerous, violent, and deeply entrenched in – and way to continue to propagate – existing power dynamics.’¹⁷⁹ Despite all the risks and problems, within the current regime of extractive governance, it is difficult to picture the economic, social and political context without the mining industry.

4.3.1 CSR & The Aid Industry

It is important to note the overlapping responsibility of CSR and the aid industry. With more than 13 million Congolese in need of humanitarian aid in 2018 (twice as many as last year) and 7.7 million facing severe food insecurity (up 30% from a year ago) as reported by the United Nations in March 2018,¹⁸⁰ there is clearly an ongoing humanitarian crisis in the DRC. There are also more than 4.5 million people displaced which is according to the Guardian in April 2018, the highest number of Internally Displaced Persons (IDPs)¹⁸¹ in the DRC for more than 20 years. In looking at the situation objectively the question arises of who is responsible to act in this crisis? Without getting too deep into the lively debate about the effectiveness and reach of the aid industry in central Africa, it comes back to the role of hybridity in governance on all levels. When the central state is unable and unwilling to perform the duties expected of it, there are plethora of other actors who fulfill state functions. Two of these are international mining corporations and the CSR projects, foundations and grants that they fund and the international aid industry.¹⁸² Both of these actors face similar challenges in managing the expectations and realities of their contributions as well as practicing meaningful community engagement without producing unrealistic expectations.

The externalization of the provision of public services is nothing new in the DRC, from a historical perspective on sovereignty and how mining companies have shaped social life in zones of extraction ‘SOKIMO constituted a state within a state because it was relatively autonomous from the colonial administration on contriving a disciplinary apparatus which, from roughly the 1930s onward, strictly regulated every aspect of life of inhabitants that was relevant to the needs of the extractive project.’¹⁸³ This mentality did not shift dramatically in the decades to come, in 2003 Tull writes about how ‘the provision of public services is left to the collective efforts of the

¹⁷⁷ Kelly, “‘This Mine Has Become Our Farmland’: Critical Perspectives on the Coevolution of Artisanal Mining and Conflict in the Democratic Republic of the Congo,” 106.

¹⁷⁸ Kelly, 106.

¹⁷⁹ Kelly, 107.

¹⁸⁰ Masisi, “‘The Wars Will Never Stop’ - Millions Flee Bloodshed as Congo Falls Apart.”

¹⁸¹ IDPs defined by the UNHCR as “persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized state border” “IDP Definition - UNHCR|Emergency Handbook.”

¹⁸² Meagher, De Herdt, and Titeca, “Unraveling Public Authority : Paths of Hybrid Governance in Africa.”

¹⁸³ Schouten, “Extractive Orders: A Political Geography of Public Authority in Ituri, DR Congo,” 5.

local communities or externalized to foreign aid organizations.’¹⁸⁴ Although changes have been made in North Kivu since Tull’s case study, one can easily argue that the state does little more to provide public goods – much is still externalized to international corporations as well as the church, non-profit and community actors. Furthermore, Schouten notes that ‘even today, *Ituriens* invest industrial mining projects— rather than the government—with high expectations in the provision of public goods such as health, employment, infrastructure and education.’¹⁸⁵ Clearly, over the years of changing concession owners, there have been key responsibilities that remain. In the next section there will be a more in-depth look at the three case studies which illustrate corporate involvement in extractive governance and how that reflects on the social and infrastructural development that they endorse.

4.4 Case Studies

4.4.1 Banro – Mukungwe Case Study

The social abuses perpetrated in extractive zones are not just historically common, but common across a series of governing actors. When armed forces, whether state actors or not, governed the Mukungwe mine there were ample allegations of child labor, discrimination, sexual violence and subordination of women in the mine work. This is a common theme, where the disadvantaged populations such as children, IDPs and women have access to less plentiful mine sites, or they are relegated to sifting through tailings that had already been combed by other diggers. Of course, this work is less profitable, and thus continues the subordination of these miners. The systematic exploitation of subordinated populations does not stop when a mining area industrializes. As Banro has seen at their Namoya mine site, the industrialization process is complicated by the fact that there are already artisanal miners present at the site of extraction, much like Mukungwe, there is more than one actor who claim legitimacy in governance of the land and resources. Cases of involuntary displacement of artisanal miners result in resentment and an inability to find an alternative livelihood, in the Namoya mine case, groups ‘repeatedly complained against Banro for what they consider displacement and a lack of jobs for area workers.’¹⁸⁶ The corporation’s legitimacy to displace people and end livelihoods comes from opaque contracts between the company and the government, with the collaboration, facilitation and collusion of the armed regional actors.

Despite perhaps a negative overall sentiment, there are many nuances to corporate involvement in resource governance and social impacts. Aside from the negative impact on livelihoods and the artisanal mining sector, Banro has also contributed to education programs for aspiring Congolese geologists and they have hired both Ghanaian and Tanzanian geologists to work on their mines. According to the 2014 OECD sponsored study,¹⁸⁷ since 2004 Banro has been considered welcome in South Kivu where they operate because of the example they set of hiring ‘locally.’ In a July 2017 article in the Northern Miner publication, Banro President and CEO John Clark commented on the difficulties of the several hostage situations and attacks Banro has experienced, but concluded that overall ‘we’re committed to building a Congolese mining company with Canadian roots — building up the expertise of our workforce, employing and training more Congolese staff — and we’re pretty proud of what we’re doing.’¹⁸⁸ Here is a good place to remember that in fact the so called Canadian roots of the company are more likely Chinese roots, given that the beneficial ownership of the company is tied to Chinese investment.

¹⁸⁴ Tull, “A Reconfiguration of Political Order?,” 436.

¹⁸⁵ Schouten, “Extractive Orders: A Political Geography of Public Authority in Ituri, DR Congo,” 5.

¹⁸⁶ Jamasmie, “Banro Halts Gold Mine in Congo Due to Violence, Shares Collapse.”

¹⁸⁷ Mthembu-Salter, “Baseline Study Two: Mukungwe Artisanal Mine, South Kivu, Democratic Republic of Congo.”

¹⁸⁸ Saywell quoting Banro CEO John Clark in July 2017: Saywell, “Banro Navigates Risk in the DRC.”

While Banro takes a very positive stance despite the many security incidents, publicized complaints from the community are that they are not hiring the artisanal miners who are displaced by the industrialization of the Banro properties along the Twanziga-Namoya gold belt.

Furthermore, there have been attempts at community reconciliation and conflict mediation in the case of the Mukungwe mine.¹⁸⁹ The disagreement was based on the conflict between the Rubangos and Chunus and over whether or not the Mukungwe mine was on the Banro concession at all. Ultimately the working group decided that it was up to the Congolese state to make the final decision and there was an elaborate plan for action on the various conflicts, including plans for alternative employment for artisanal diggers, the compensation to the two families by Banro, identification of all of the artisanal miners on the site, and the necessity of 'independent' policing on the site.¹⁹⁰ Sadly, in trying to identify any success in these projects, the only update available online was from 2015 when there was reports of sit-ins and violence in Mukungwe and the death of 20 victims. There were protests asking for the state to re-institute order so that the miners could resume their activities at the site which was too dangerous to work in.¹⁹¹ With Banro committed to three years of exploration on the Mukungwe site, which would have ended in 2017 and they committed to leaving artisanal miners in the area until the end of the exploration phase, however with the exploration over, there will be the choice to industrialize or not.

4.4.2 *Kibali Gold Mine*

Randgold and AngloGold Ashanti both have mixed track records in the region, but the Kibali Goldmine is a particular case because it epitomizes the archipelization of authority and extraction. Despite being a 45% stakeholder, Randgold is the sovereign ruler as they are the contractor running the mine. The social impacts of this kind of sovereign concession is more about the isolation and alienation of extraction than the messy impacts of interaction between extractive regimes. Kibali doubtlessly hosts fewer human rights and labor abuses than an artisanal site nearby, but it is a symbolic extraction where the wealth of the land is disappeared without having ever touched the land or people from which it came. Though this is the case with much of the resources, this is a particularly stark and effective example of isolated extraction. It is not new in the Kilo-Moto gold belt to have extractive actors provide the majority of public services, as Schouten explains, 'within its zones of exclusion, SOKIMO not only provided transport and power infrastructure and housing, but also influenced the location and policies of health centers and education provided by the Catholic Church.'¹⁹² Randgold and AngloGold are simply inheriting and negotiating their place as successor to SOKIMO in both the profits of the gold belt and the provision of services and infrastructure around the zone of extraction. As one of the most profitable gold mines in the world, Kibali may be seen by other MNCs as a blueprint for the industrialization of nearby concessions.

4.4.3 *Alphamin Bisie Mine*

While the Mauritius based Alphamin Resources Corp. has a much shorter history in the DRC, the main social impact of the project will most likely be in stemming the artisanal mining sector in the region. The ABM project is very optimistic, developing such a technologically and infrastructurally advanced project in such a remote and conflict-ridden area will have significant hurdles. However, the owners and investors of Alphamin are confident that the investment will pay off and the payback period of the project is only two years due to it being one of the most

¹⁸⁹ Mthembu-Salter, "Baseline Study Two: Mukungwe Artisanal Mine, South Kivu, Democratic Republic of Congo."

¹⁹⁰ Mthembu-Salter.

¹⁹¹ "Update on Mukungwe | CEGEMI."

¹⁹² Schouten, "Extractive Orders: A Political Geography of Public Authority in Ituri, DR Congo," 5.

profitable tin deposits in the world. The ABM website boasts unparalleled sustainability and conflict sensitive engagement, they also cite the fact that up to 16,000 artisanal miners exploited the Alphamin Bisie site between 2002 and 2012, and this factored into both the global tin supply (at around 4%) and the funding of the North Kivu and regional conflicts. While Alphamin seeks to comply with OECD Guidance, EU regulation and the Dodd Frank Act 1502,¹⁹³ there remains the simple fact that the industrial mine will never be able to provide employment for the same number of artisanal miners who exploited the site. The conflict free tin at a low price that Alphamin promises, comes at the cost of the livelihood of many in the region.

In regard to CSR projects, ABM is at a high risk of addressing state responsibilities because of the lack of infrastructure and remoteness of the project. They already have put in more than 30km of roads to make the mine site accessible. 'ABM committed, from the date of production, to spend 4% of its in-country operating and administrative expenses on community development. This investment will be governed with representative input from local communities and managed by the Lova Alliance, a [...] not-for-profit foundation.'¹⁹⁴ The website goes on to explain that 'the projects, supported by the foundation, will be selected following an in-depth survey of the 13,500 households (approximately 80,000 residents) across the 44 communities closest to Bisie. Representative committees will prioritize a range of projects to promote social and economic development to which they, local authorities and potentially external donors, will also contribute.'¹⁹⁵ The kinds of projects anticipated include programs related to alternative livelihoods, such as palm, cocoa and coffee agriculture which would 'provide incentives for incomes beyond illegal artisanal mining.'¹⁹⁶ While ABM places a lot of emphasis on the illegality of artisanal mining they also seek to 'provide educational and health infrastructure and services, like potable water, malaria reduction and treatment and primary health care capacity building.'¹⁹⁷

It is interesting to note that the Environmental, Social and Health Impact Assessment¹⁹⁸ is not required by any mandated national or provincial authority in the DRC, but is 'being generated to assist ABM in following applicable national and international reporting standards and specifications as it relates to mining projects of this nature.'¹⁹⁹ There are likely both positive and negative consequences of the industrialization of the Bisie tin mine – there will be access to more technologically advanced extractive equipment and environmental impacts will likely be mitigated. However, it is impossible to not see the practices of governance which seep into operations. Infrastructure, healthcare and education facilities are part of governance whether they are performed by an MNC or the government. These initiatives are standard for CSR projects – it will be interesting to note in 5-10 years, how they have taken form and if the community is profiting from the transition of the Bisie mine site to an industrial operation. It is through consequences that it is easiest to see how little is meant to change with the implementation of social projects and how much can change because of insecure livelihoods.

4.5 Economics & Governance

Within the framework of extractive governance that I have laid out in this thesis, we can view economics as the driving force of governance in the DRC throughout the modern history of the country. In fact, extraction has been the priority in mechanisms of governance, over development, security and economic and social health and prosperity. This stems in part from the political economy of conflict defined as 'the way in which economic resources are generated and

¹⁹³ "Conflict-Free Tin : Alphamin Resources Corp."

¹⁹⁴ "Adding Value : Alphamin Resources Corp."

¹⁹⁵ "Adding Value : Alphamin Resources Corp."

¹⁹⁶ "Adding Value : Alphamin Resources Corp."

¹⁹⁷ "Adding Value : Alphamin Resources Corp."

¹⁹⁸ EOH Coastal & Environmental Services, Hardy, and Avis, "BISIE TIN EXECUTIVE SUMMARY ESHIA ENGLISH - PPP DISCLOSURE 17 08 16."

¹⁹⁹ "Alphamin Resources Corp."

exploited by participating factions and actors (both internal and external) involved in so-called internal conflicts located inside specific countries, in order to sustain their own existence and further their own political and economic interests'²⁰⁰ as well as the lack of economic sovereignty held by the DRC. This is particularly noticeable in what Harrison cites as the 'economic recolonization' of Africa through structural adjustment and lending institutions, which of course were all in the name of development. 'Thus, a central strand of the literature on SAPs²⁰¹ focused on its effects in 'hollowing out' sovereignty, perhaps even to the extent that one might speak of **recolonization**.'²⁰² Furthermore, the establishment of economic intervention by first the World Bank and IMF, and later lending institutions (IFIs) not only became a core component of the economic agenda of countries like the DRC, but the repeated failure to implement reforms also became a kind of school in bending rules and finding 'evasive and surreptitious strategies to cope with the demands of external agencies.'²⁰³

The boom of artisanal mining as a viable income opportunity coevolved with the Congolese war according to research done by Kelly in South Kivu. The war and following displacement as well as the general insecurity and inability to engage in trade of agricultural products made the prospects of a livelihood based on farming far less available than it had been proceeding the war.²⁰⁴ According to interviewees for Kelly's research as well as the informants I discussed these issues with, the inability to farm (due to conflict, land rights and fear of long term investments) is the most consequential driver for an individual to turn to mining. While the increase of mine-based livelihoods in the past decade has been significant, the overall governance and economic situation of the mining communities has stagnated and worsened.

4.6 Conclusions: Governing Society

Exploring the ways in which governing actors are involved in and contribute to social systems, such as health, education and infrastructure in the regions of extraction, not only illuminates the absence of the state, but proves the capacity of non-state actors to perform functions of governance. The actions of MNCs are legitimized by their role in providing public services which overlap not only with ideal state functions, but also with the aid industry. The political elite of the country have no problem with personally profiting off of their relationship with the mining industry, while the same industry takes on state functions. However, in a commercial and development context it is ill advised for companies to be filling this role. It further complicates the blending of public and private motives and leaves clear discrepancies between altruistic and personal interests on the part of the corporations as well as their allies in the government. This again leads to the conclusion of a necessary broadening of the understanding of governance in the context of extraction in the DRC. Furthermore, it is important to question the states unwillingness to provide basic state functions even in the region where mining is able to provide considerable wealth and power to the central state by its very existence. Undermining the quality of life in the zones of extraction may be a deliberate practice of the regime of extractive governance.

²⁰⁰ Douma, "The Political Economy of Internal Conflict," 12.

²⁰¹ vincentfollea, "Structural Adjustment Programmes," SAPs are defined as economic policies for developing countries which were introduced by the World Bank and the IMF in the 1980s in response to a debt crisis in Africa in the 1970s. These programmes mainly consist of conditional loaning. Countries are able to get loans from the IMF or the World Bank if they accept conditions given by these entities, which usually consist of policy reforms intended to boost economic development by:

²⁰² Plank 1993; Hanlon 1991; Saul 1993, Campbell and Loxley 1989 in Harrison, "Debt, Development and Intervention in Africa: The Contours of a Sovereign Frontier," 191.

²⁰³ Reno 1998; Bayart et al. 2000 in Harrison, 191.

²⁰⁴ Kelly, ""This Mine Has Become Our Farmland": Critical Perspectives on the Coevolution of Artisanal Mining and Conflict in the Democratic Republic of the Congo," 102.

Until a fundamental change in the way that the DRC fits into the global economy is made and until the world looks at DRC as something other than a lucrative contribution to the global economy, which allows the majority of profits to be made on the downstream end of the supply chain, likely nothing of the current governance in the country will change significantly. The key component of the extractive regime of the DRC has always been, and still is, economic productivity. The history and dominant narratives around the situation in the DRC supporting this extractive regime need to be broadened. Mines in the DRC are productive despite challenging infrastructure, insecurity and peripheral involvement of state institutions because there is such a massive wealth of resources. How is it that despite that wealth there is such rampant and increasing poverty? While gold and copper and cobalt prices and production increase, there are more and more IDPs and Congolese in need of fundamental aid such as food and healthcare. With a history of bad governance, corruption and unanswered grievances, it will not be an easy task to reconceptualize the governance of the DRC, nor will it be easy to convince the actors engaged in proxy and hybrid governance of resource rich zones of extraction to relinquish their control. Externalizing the provision of social services and engraining the concession and conflict economies into the collective memory of the region is not helping the extractive governance regime to give agency to the mining communities, it is excluding agency from mining communities much like the profits of their labor are currently being excluded from them.

5 REGIMES OF SECURITY GOVERNANCE: MULTINATIONAL'S, SECURITY & SOVEREIGNTY

The Kivu and Ituri provinces may not be the largest producers of minerals in the country, but because they have historically been areas of heightened conflict, it is fitting to address them in the context of understanding dynamics of extractive governance in a conflict setting. Furthermore, it is interesting to see how corporations contribute to security governance in an area known for the lack of state legitimacy and strength of non-state armed groups. Contributing to security governance is a clear illustration of MNCs performing yet another state function – this is part of the extractive regime historically and contemporarily and legitimizes both the sovereignty of concession holders and hybrid governance dynamics in the communities and region at large. Much of the literature on corporate involvement in security governance available for the DRC has been done in Katanga province. For example, Jana Hönke has written extensively on hybrid security governance of international corporations in Katanga and I believe that her thesis is still very much applicable, because of the extreme security situation in the Kivu Provinces, it is perhaps even easier for international corporations to engage in various governance practices given the absence of state actors.

Over the course of the conflicts in eastern DRC there has been a decline in the state's monopoly over the use of force as individuals and groups began to engage in the conflict independently and against the state. In the midst of this violent restructuring of state authority 'local strongmen have carved out private fiefdoms for the outright privatization of natural resources,'²⁰⁵ this shift from state centered power to the privatized assumption of power on a local level relates intimately with the governance of resources. It can be argued that it was made possible by the context of war in the Kivu Provinces. A context of conflict may not be the sole way to divide land and power and legitimize exploitation of resources, but it was a way that worked for many in the Kivu provinces during the years of extended conflict in 'a region notoriously difficult to govern.'²⁰⁶ This multiplicity of governing actors certainly includes armed groups, of which there are still plenty in the Kivus. However, in limiting the debate to armed non-state actors, we preclude the impacts of corporate security hierarchies in defining the role and nature of security governance in and around mining sites.

5.1 Conflict Resources: Understanding the Conflict to Understand Extraction

Diving briefly into literature on the resource curse and the topic of how extractable resources have affected the political economy of conflict in Africa, there has been much speculation – from the greed-grievance dichotomy²⁰⁷ to the hypotheses about the many other relationships between mineral wealth and conflict in the global south. Looking at the dominant narratives on the resource curse it is interesting to note how neoliberal thinking places the blame of poor resource management on regimes that the US and European leaders have backed in their taking over of resource rich countries. For example, Mobutu was aided into power by the CIA, and yet he was clearly the wrong person to create a sustainable and enriching vision and legislature for Congolese mineral wealth. In looking at how the resource curse contributes to the context of the DRC, I found that onset and duration of civil war has a strong correlation with alluvial gemstones as well as petro-products.²⁰⁸ The literature on war economies²⁰⁹ shows how integral economic activities are to sustain armed conflict – wars are expensive, and the participants need money. Unfortunately, there is not an easy way to stop illegal extraction in the DRC, attempts at

²⁰⁵ Tull, "A Reconfiguration of Political Order?," 431.

²⁰⁶ Tull, 431.

²⁰⁷ Keen, "Greed and Grievance in Civil War"; Collier, "Doing Well out of War: An Economic Perspective."

²⁰⁸ Ross, "What Have We Learned about the Resource Curse?"

²⁰⁹ Fischer and Schmelzle, "Transforming War Economies: Dilemmas and Strategies."

stemming the conflict by restricting access to resources has resulted in loss of livelihood for thousands of artisanal miners and the illegal trade of minerals continues to flourish, perhaps using different channels. Clearly there needs to be a more comprehensive solution if the goal is to combat the use of minerals to fund conflict.

Along the vein of literature on the resource curse, there is an interesting study and even more interesting findings by Maystadt, De Luca, Sekeries and Ulimwengu. They sought to understand the contradictory findings of resource curse scholars (some found a positive²¹⁰ and some a negative²¹¹ correlation to violent conflict) by adding a spatial level of analysis. They found that on a regional level the presence of valuable minerals in the DRC specifically did generate instances of violent conflict, but the conflict tended not to be in direct proximity of the mining sites. This, according to their evidence, is due to the 'protection effect' or the fact that conflict negatively affects the profitability of a mine, so companies and other governing actors seek to displace conflict from mine sites into neighboring communities in order to secure the highest profit. This protection effect could stem either from security in place around the mine site, or from deals negotiated between corporations and local state and non-state armed actors.

Furthermore, it is not just resources that facilitate conflict, sometimes conflict is a means to gaining control of resources.²¹² There is both literature and speculation on the socio-political and strategic control of resources in the DRC, for example prominent Belgian journalist Colette Brackman produced a map showing that the zigzag progression of the Rwandan backed rebels was based on the location of minerals. This can be interpreted as proof that resources fueled the Rwandan/Ugandan invasion in 1996. In addition, there is evidence that multinational mining corporations signed billions of dollars of deals with Laurent Kabila's rebel coalition before he succeeded in taking office.²¹³ The links between the role of Rwanda in the conflict and governance of eastern DRC and mineral wealth crop up in many analyses of the political situation.

Related to this, yet another unintended consequences of Dodd Frank included increased militarization of mines by the FARDC – 'this ban largely shut down mining activity in the region, but it also led to increased militarization of the mining sector as the [...], the FARDC, took over many mines that had previously been non-militarized.'²¹⁴ These kinds of accidental changes of control over mine sites and zones of extraction, might not be so accidental after all. Political decision making and influence plays a big role in the governance of mining in the DRC – 'access to eastern Congolese minerals is believed by most observers to be a key component in the rapprochement Kabila reached with Rwanda's President Paul Kagame in 2009 to end hostilities between their countries.'²¹⁵ It seems that Kabila's mining ban allowed the FARDC to gain considerable control over some previously non-militarized mines such as the Kamitunga mine. This 'may have been another goal – ensuring that his troops, not others, had control over the mines before 1502's rules came into effect would be important if guaranteeing Rwanda access to Congolese minerals is part of maintaining the peace.'²¹⁶ The strategic use of international regulation, coupled with the 'accidental' militarization of certain mines can be a thoroughly convincing argument for the fact that extraction is a part of political negotiation. Finding the ultimate beneficiary of the profits of extraction, while nearly impossible, would be the determining factor. Without this information one can simply speculate and look at the history and context for clues, however, these allegations are worth investigating because they would

²¹⁰ Buhaug and Rod; 2006, Angrist and Kugler; 2008 and Dube and Vargas; 2013 in Maystadt et al., "Mineral Resources and Conflicts in DRC: A Case of Ecological Fallacy?," 722; Collier and Hoeffler, "Greed and Grievance in Civil War."

²¹¹ Ziemke; 2008 and Sanchez de la Sierra; 2013 in Maystadt et al., "Mineral Resources and Conflicts in DRC: A Case of Ecological Fallacy?," 722.

²¹² "When Mines Fuel Conflict."

²¹³ Engler, "Congo-Kinshasa: Wherever This Canadian Mining Company Goes, Violence Seems to Follow."

²¹⁴ Seay, "What's Wrong with Dodd-Frank 1502?," 13.

²¹⁵ Seay, 13.

²¹⁶ Seay, 13.

implicate leveraging resources in both Congolese and Rwandan governments and the illegal militarization and exploitation of resources as part of shady and corrupt political deals.

5.2 Unique Security Assemblages

In the DRC there are many actors engaged in the provision of public goods,²¹⁷ as one of these public goods is security we can see public authority of external actors as a key component of the extractive regime. Security practices are unique given the combined laws and practices. Going back to the ideal-typical Weberian state, provision of security and monopolization of the use of force are key components of a successful state. With 70 active armed groups in the eastern DRC there is clearly not a monopoly on the use of force, provision of security therefore falls into the hands of many competing actors. For instance, security might be provided by a rebel or militia group in exchange for funding²¹⁸ or taxation.²¹⁹ Corporations also play a role in security dynamics. Hybrid security governance by corporations is one way in which corporations are inextricably involved with performing a key state function. Furthermore, the context of insecurity lends legitimacy to groups and actors seeking to provide a level of security. Colonel Faustin Misibaho, a senior officer in the Patriots' Alliance for a Free and Sovereign Congo (APCLS) told the Guardian: 'we are simply protecting our villages. When the government and its allies stop trying to force us off our land then we will stop fighting. Until then the wars will continue.'²²⁰ A common theme of corporate involvement is also to 'reduce insecurity'²²¹ or somehow contribute to security infrastructure in the communities where they operate.

5.2.1 Role of Armed Groups in Resource Governance

Resource governance and management by militias and armed groups is especially prominent in the peripheral regions which are isolated infrastructurally and geographically from trading centers and industrial mine sites. Steven Spittaels discusses the role of armed groups in the 'Kivu hinterlands' meaning the neighboring provinces which are increasingly remote and inaccessible. Ituri is included in this, except for the industrial mine sites which supply largely their own infrastructure.²²² Furthermore, these regions, like much of DRC generally, do not profit from the resources because it is sold through illegal channels supported by the FARDC or local militias and in some cases mining companies have commercialized the artisanal mining sector in their concessions by simply flying the minerals to more centralized places²²³ such as Goma in North Kivu where it can enter the market surreptitiously.

²¹⁷ Schouten, "Extractive Orders: A Political Geography of Public Authority in Ituri, DR Congo," 3.

²¹⁸ Kelly, "'This Mine Has Become Our Farmland': Critical Perspectives on the Coevolution of Artisanal Mining and Conflict in the Democratic Republic of the Congo."

²¹⁹ Mthembu-Salter, "Baseline Study Two: Mukungwe Artisanal Mine, South Kivu, Democratic Republic of Congo."

²²⁰ Masisi, "'The Wars Will Never Stop' - Millions Flee Bloodshed as Congo Falls Apart."

²²¹ "Adding Value : Alphamin Resources Corp."

²²² Spittaels, "The Complexity of Resource Governance in a Context of State Fragility: An Analysis of the Mining Sector in the Kivu Hinterlands."

²²³ Spittaels, 9.

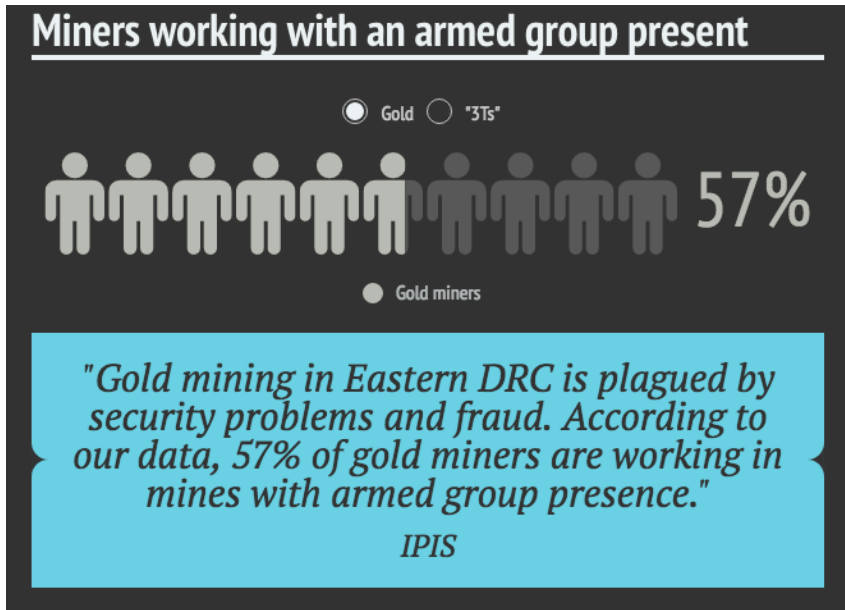


Figure 5-1 (IPIS Interactive Maps)

surrounding area stems from both weak and inefficient state institutions and the poor pay grade of state actors (military and police included) which are often easy to buy or corrupt and incorporate into security and economic hierarchies well outside of the domain of the state. This again emphasizes the fact that when there is a governance vacuum, alternative actors will step in to fill it.

The kind of involvement that armed groups can be seen taking in mining sites is often similar roles of governance such as taxation, regulation and renting equipment and sites to artisanal miners as well as working the mines themselves. Kelly discusses armed group control of mines through taxation and roadblocks as well as imposing forced labor in mines or dictating that on certain days all profits are contributed to the group. Alternatively, the armed group may directly control the mine and offer their security and protection for a fee.²²⁵

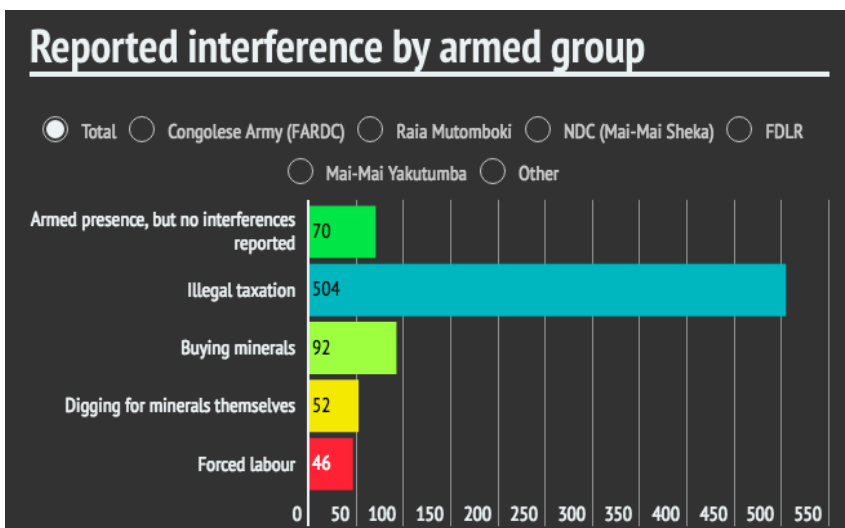


Figure 5-2 (IPIS Interactive Maps)²²⁶

²²⁴ Bleischwitz, Dittrich, and Pierdicca, "Illicit Trade with Coltan and Implications for Certification," 159.

²²⁵ Kelly, "This Mine Has Become Our Farmland": Critical Perspectives on the Coevolution of Artisanal Mining and Conflict in the Democratic Republic of the Congo," 105.

²²⁶ "Analysis of the Interactive Map of Artisanal Mining Areas in Eastern DRC."

The so called public security infrastructure of military and police forces often follow private interests – this stems from the fact that over the last decades, public security forces have been paid so minimally that they are forced or enticed into ‘everyday practices of extortion and corruption.’²²⁷ In following these private interests, ‘the FARDC, which is supposed to protect the population and consolidate security, often does the opposite. [...] there is a larger FARDC presence and the soldiers regularly seek to gain control of mining sites and to loot from the local population.’²²⁸ The hierarchy of security is further complicated by the official involvement of *Police Nationale Congolaise* (PNC) troops embedded within private security force details. In extreme cases this has led to clashes between PNC and FARDC forces because of the differing motives of the hierarchies in which they are embedded.²²⁹ Both Peer Schouten and Jana Hönke have explored the security practices in the region, concluding similarly that ‘mining areas are transnationalised business spaces in which local, transnational and international actors engender a hybrid regime of security governance.’²³⁰ The PNC act as hired agents of international and national security contractors in securing and enforcing sovereign control over concessions.

In the DRC there are several blurred lines which complicate the distinction between state and non-state and public and private resulting in a complicated regime of security provision. Security is provided through a series of state and nonstate actors, militia, rebel groups and private security companies often contracted by corporations. Schouten cites Abrahamsen and Williams in calling the provision of security in eastern DRC a ‘security assemblage’²³¹ this is a complex web of interconnected security actors who work in parallel or in conjunction with other assemblages. Furthermore, the post-war *brassage* (intermingling of military and former rebels in an attempted security sector reform) was not nearly as smooth of a transition as the instigators probably imagined, instead, the process integrated various armed actors into an informal network of Mobutu era resource governance.²³² The militarization of resource extraction is a key thread throughout the several phases of DRC’s recent history. In the rubber boom, the whole system of both concessions and the CFS extractive regimes were fully militarized. In order to compel the participation of rubber gatherers, there were public military posts scattered throughout the land which supplied the contracted companies with firepower. Furthermore, each contracted company often had their own military force. The zones of extraction were tightly governed, for the population it was a pivotal part of the extractive mechanism. In order to move from one village to another, a person needed to get a permit from an agent of the governing state or company.²³³ Besides the horrific terms of the resource governance of the time, there are many compelling similarities to the ways in which other resources have been and still are governed today. Forced labor not only fueled the rubber industry, but also the early mining industry – including the mining of uranium for the Hiroshima and Nagasaki bombs²³⁴ – and the building of key extractive infrastructure such as the expanding railroad system.

²²⁷ Baaz and Olsson 2011 Schouten, “Extractive Orders: A Political Geography of Public Authority in Ituri, DR Congo,” 3.

²²⁸ Spittaels, “The Complexity of Resource Governance in a Context of State Fragility: An Analysis of the Mining Sector in the Kivu Hinterlands,” 37.

²²⁹ Hönke, “New Political Topographies. Mining Companies and Indirect Discharge in Southern Katanga (DRC),” 119; Spittaels, “The Complexity of Resource Governance in a Context of State Fragility: An Analysis of the Mining Sector in the Kivu Hinterlands”; Schouten, “Extractive Orders: A Political Geography of Public Authority in Ituri, DR Congo,” 4.

²³⁰ Hönke, “New Political Topographies. Mining Companies and Indirect Discharge in Southern Katanga (DRC),” 110.

²³¹ Schouten, “Extractive Orders: A Political Geography of Public Authority in Ituri, DR Congo,” 3.

²³² Cuvelier, “The Complexity of Resource Governance in a Context of State Fragility: The Case of Eastern DRC,” 12; De Koning, “Demilitarizing Mining Areas in the Democratic Republic of the Congo: The Case of Northern Katanga Province.”

²³³ Hochschild, *King Leopold’s Ghost*, 163.

²³⁴ More than 80% of the uranium for these two bombs came from the heavily militarized Congo mine in Shinkolobwe - modern day Katanga Province from: Hochschild, 279.

Although it might be impossible to understand the full picture of security provision in eastern DRC, there are some elements that could use further research. Namely the blurred lines between public and private security stemming from the privatization of the Congolese police forces. The legitimacy of these arrangements so far has not been called into question, despite the clear implications against neutrality. The negotiated space²³⁵ of mining concessions is the epicenter of this new hybrid governance and thus it would be a good place to explore this unconventional security arrangement. The complex web of ‘security assemblages’ now working in the eastern region of DRC is difficult to understand at best, however a better understanding of corporate influence should be attempted as mining corporations have embedded both state and non-state (public and private) security actors within their hierarchy.²³⁶ Congolese policemen work within the private security companies which routinely provide security to international corporations.²³⁷ These actors work with, against and alongside the other security providers in the region, but the involvement of international corporations has not been looked into more deeply than to acknowledge that it exists. These joint operations between theoretically public PNC individuals and private corporations should be at the center of a legal and ethical debate.

To further complicate the security situation in eastern DRC, ‘in 2003, a formal partnership agreement between the Congolese police and the private security industry was reached that formalized joint (armed) operations between public and private security providers. The agreement made it easier for companies to include payments to the police in their formal budgets.’²³⁸ While this is essentially legalized bribery, there has been little investigation done into how this reflects in the corporate responsibility of corporations partaking in these joint operations. This discussion of legalization and legitimization of corruption and thus making the informal formal is an example of how mechanisms of power and legitimacy stemming from the relationship between the legal and illegal practices of international corporations and the Congolese state foster these security assemblages that blur the defining lines of public and private and allow or even facilitate the use of armed actors in the economic spaces of resource exploitation.

Besides the legal involvement of police forces, the FARDC are very much involved in the mining sector, but because of low or non-existent wages their involvement is often more exploitative than helpful. FARDC involvement in and control of cassiterite (tin ore) mines in Walikali territory of North Kivu are reported to be part of the reason for the temporary freeze of mining activities in 2010 (although mining continued at night).²³⁹ Though the FARDC are technically state actors, they are often involved in projects that work towards personal interests. Therefore, legality doesn’t factor considerably into the decision-making process and regulative governance has not limited FARDC involvement in mining operations.

5.2.3 Role of Private Security Contractors

Another role to be filled in the complex regime of extractive governance in the DRC is that of private security companies. Private security not only plays part in the blurred line between public and private which has been discussed relating to the involvement (legal and not) of the FARDC and PNC, but these companies are also a large part of the security assemblages of DRC in fact with 30,000 people employed in the capacity of private security in the DRC alone, private security agents²⁴⁰ outnumber both UN Peacekeepers and the significant rebel forces present in

²³⁵ Schouten, “Extractive Orders: A Political Geography of Public Authority in Ituri, DR Congo,” 8.

²³⁶ For a further discussion of embeddedness: Meagher, “The Strength of Weak States?”

²³⁷ Schouten, “Extractive Orders: A Political Geography of Public Authority in Ituri, DR Congo,” 4.

²³⁸ Hönke, “New Political Topographies. Mining Companies and Indirect Discharge in Southern Katanga (DRC),” 121.

²³⁹ Bleischwitz, Dittrich, and Pierdicca, “Illicit Trade with Coltan and Implications for Certification,” 160.

²⁴⁰ Schouten clarifies the difference between “Private Military” and “Private Security” the former is offensive whereas the latter is primarily defensive in Schouten, *Private Security Companies and Political Order in Congo*, 3.

the DRC. The growth of the private security industry around the world is an interesting phenomenon that related back to the discussion of the changing archetypal governance. The private security agent is not just a fixture of resource rich and conflict-ridden environments, in fact the US hosts the largest number of security agents in the world,²⁴¹ and thus we see that the changing role of state and non-state actors in functions of governance is expanding not just in the DRC, but internationally.

5.3 Case Studies

5.3.1 Banro – Mukungwe Case Study

In the Mukungwe mine, whether governed by FARDC, chiefs or families with land titles, there are similar extractive practices, using violence and militarization to monopolize extraction and claim legitimacy. The mine was closely tied to the *Rassemblement Congolaise pour la Démocratie* (RCD) through the 1998-2002 war years and Banro began their South Kivu operations in 2003 when the conflict had subsided,²⁴² although the company has been active in the DRC since 1996.²⁴³ However, because of the militant presence at the Mukungwe site, Banro could not establish their presence despite the site being on their concession. Furthermore, two families, the Rubangos and the Chonus, claimed their own land rights and thus the right to exploit the mine. The fight between the two families escalated to hiring FARDC to fight for them in exchange for mining rights. Between 2012 and 2015 Banro conducted workshops and attempted to reconcile the rival families and assert their domination over the area, while at the same time they began exploration and feasibility studies for an industrial mine which would push the artisanal population off of the land all together. Banro hoped to establish ZEA (artisanal mining concessions) in an area nearby with the engagement of the government.²⁴⁴ However, as of 2015 there was still cycles of violence and demonstrations at the site and the armed group of the Rubango family controls the mine – most of the artisanal miners have left due to the heightened conflict.²⁴⁵

The necessity of constant monitoring of the situation is essential, failure to monitor and adjust to the political and security situations as they arise results in confrontations such as the multiple confrontations which Banro experienced in the end of 2016. These included armed groups ambushing vehicles, riots which ended in bloodshed and hostages being taken at one of Banro's facilities.²⁴⁶ The complex situation of tension between artisanal mining communities and small and medium sized enterprises and industrial mines sets the stage for the assessments of the impacts of LSM mining in the region. The division of labor versus productivity between the ASM and LSM mining is very stark, while ASM accounts for 90% of the mine workers globally, it only produces 10% of resources, while LSM is responsible for 10% of mine workers and 90% of resources produced.²⁴⁷ Clearly, industrial mines are far more productive, while providing a fraction of the number of livelihoods. In a country like the DRC, where the economy is fragile, and loss of livelihood is a serious risk factor liable to lead to conflict,²⁴⁸ this difference in productivity makes the industrialization of mining areas particularly prone to conflict and discontentment. Bleischwitz et al. estimates that in 2008 the number of artisanal miners in the DRC was between 500,000 and two million. With an average of four to five dependents per digger, the proportion

²⁴¹ Schouten, 14.

²⁴² Mthembu-Salter, "Baseline Study Two: Mukungwe Artisanal Mine, South Kivu, Democratic Republic of Congo."

²⁴³ Schouten, "Extractive Orders: A Political Geography of Public Authority in Ituri, DR Congo," 9.

²⁴⁴ Mthembu-Salter, "Baseline Study Two: Mukungwe Artisanal Mine, South Kivu, Democratic Republic of Congo."

²⁴⁵ "Update on Mukungwe | CEGEMI."

²⁴⁶ Verweijen, "Shedding Light on Why Mining Companies in Eastern Congo Are under Attack."

²⁴⁷ Villegas, "Introduction to Artisanal and Small-Scale Mining (ASM)."

²⁴⁸ "Final Report: Resilience Systems Analysis Eastern Democratic Republic of Congo."

of the population dependent on artisanal and ASM mining activities could be between 8-10 million, which is 16% of the total DRC population (according to the world Bank Report 2008). In many parts of the DRC, ASM is the sole possibility for income.²⁴⁹ Due to the necessity of the mining sector for the meager incomes of much of the population and the fact that options for employment are so limited, the ASM sector needs to be invested in. The LSM and ASM relationship is a point of friction and while there are positive and negative aspects to both, it is worth significant effort to try to find a way for these two modes of extraction to coexist on a more equal platform than they do today.

5.3.2 Kibali Gold Mine & Alphamin Bisie Mine

Security infrastructure of these two mines looks very different from an external perspective than the Mukungwe case study. This is for two different reasons, namely, Alphamin is not yet in the production phase and because it is a tin rather than gold mine there will be different security dynamics to consider. Kibali Gold Mine is a fortress and thus I have found relatively few security incidents discussed in the news, however they will certainly have a complex security hierarchy of PNC and private security contractors hired by the mine to protect the site. The security infrastructure around the Kilo Moto gold belt is heavily influenced by the various mine concessions and the security involved in the goldmining industry in the region. There are also several more projects reaching an operational phase such as the Vale project, and the 'Moku-Beverendi gold project, a joint venture with Moku Goldmines and AG controlled by Israeli billionaire Dan Gertler.'²⁵⁰ With the industrialization of further sites in Ituri, the security situation will continue to change in relation to the assemblages of security governance stemming from mining operations.

Along the process of registering a concession formally with the DRC government and industrializing a mine site in the Kilo Moto gold belt, there are several points where conflict can occur. Firstly, mining companies often pass through gatekeepers to get the site formally registered with the government, in frequently corrupt deals. Then, once the site is registered as a concession held by a company, they face the consequence of displacing the artisanal miners who already occupy the space and role of the company. Though the mining laws are different for ASM and LSM operations, there is the need to renegotiate the hierarchies of power, although the corporate claim is seen as more legitimate than any local claim to the resources.²⁵¹ Which is a clear point of friction, and which has in many cases resulted in conflicts which renegotiate the power dynamics between artisanal miners and the corporations which displace them. Furthermore, as is noted in Judith Verweijen's research, local armed groups sometimes capitalize on the discontent of displaced miners, further exacerbating the setting of conflict,²⁵² and creating an arena for the negotiation of legitimacy between multiple actors vying for authority. Furthermore, in the case of Kibali, there is a minimization of the human element of security (and production) in lieu of a technologically advanced production and security system. Schouten interviewed former security agents who confirmed this idea of having as few guards as possible in order to minimize the risk of theft.²⁵³

²⁴⁹ Bleischwitz, Dittrich, and Pierdicca, "Illicit Trade with Coltan and Implications for Certification," 159.

²⁵⁰ Wilson, "Randgold's Secret for Congo Mining: Fly People In, Gold Bars Out."

²⁵¹ Schouten, *Private Security Companies and Political Order in Congo*, 158.

²⁵² Verweijen, "Shedding Light on Why Mining Companies in Eastern Congo Are under Attack."

²⁵³ Schouten, "Extractive Orders: A Political Geography of Public Authority in Ituri, DR Congo," 168.

5.4 Sovereignty of Concessions

The idea of the sovereign concession harkens back to the spatial debate on resource governance as well as the colonial legacy of isolating zones of extraction. The ‘spatial monopoly’²⁵⁴ created and enforced with physical barriers and boundaries as well as the relocation of miners and civilians serves to exclude the local population from the most profitable zones of extraction and preclude the contestation of legitimacy. When the Belgian colonial regime followed the Congo Free State, they also continued the pattern of exploitation from 1908 to 1960 and this was the period where industrial mining was first introduced to the country. These early concessions which were linked to foreign financial groups are described as a state within a state. They had their own infrastructure and the gold and cassiterite mined contributed not to the wealth of the Congo, but to the foreign enterprises controlling the enclaves of extraction.²⁵⁵ The sovereignty of concessions and those who own them in the postcolonial state is a new way to question sovereignty on a state level. This leads to social, economic and environmental impacts, as well as contributing to the complex security situation in the DRC. Giving relative sovereignty to concession holders also seems to be a method of the extractive regime. Not only does it allow a certain distance and transfer of responsibility, but it alleviates the responsibility of the state to provide security or other services.

Discussing sovereignty in a regional context also touches on the colonial legacy in that ‘sovereignty was also the normative underpinning to work on neo-colonialism, imperialism and dependency: however, here, rather than an achievement, sovereignty was the property denied to African nations by virtue of various structures of the global economy.’²⁵⁶ Contrasting the will for a sovereign state with the obligations of sovereignty, followed by the lack of real sovereignty on political and economic issues can inform the implications of a sovereign concession. Exploring the sovereignty of concession holders in their rights and abilities of extraction is another interesting characteristic of the ongoing story of sovereignty in Africa. Despite the end of colonialism, there is still a great deal of foreign ownership. Furthermore, the actual sovereignty of African states is still up for debate.²⁵⁷ Harrison goes on to outline the argument that internationally sovereignty of the post-colony is maintained as an ‘externalized fiction’ which essentially serves to lend ruling elites’ legitimacy in the contested internal sovereignty of the state. Following this logic, one can understand the sovereignty of the state, and also, I would argue concessions as ‘the pursuit of particularist interests under the guise of national government.’²⁵⁸ In the case of concession sovereignty, perhaps it would be more fitting to say, ‘the pursuit of individual interests under the guise of resource governance.’

5.5 Conclusions: Security & Sovereignty

In the intersection of public and private security provision I have found compelling evidence of MNC involvement in key governance functions. The details of shifting and evolving governance regimes are noticeable in the complex security assemblages of the DRC mining sector, as well as the way mine sites and the legitimacy of resource extraction are components of political and economic negotiation. The economy of conflict in the DRC has relied on the resource wealth and fueled conflict on a regional level. Militarization of mines however, has served political purposes well above the local level.

²⁵⁴ Discussion of the “Lockean principle of value creation through ‘spatial monopoly’” in Schouten, *Private Security Companies and Political Order in Congo*, 169.

²⁵⁵ Verweijen, “Luddites in the Congo?,” 472.

²⁵⁶ Harrison, “Debt, Development and Intervention in Africa: The Contours of a Sovereign Frontier,” 192.

²⁵⁷ Herbst 2000; Clapham 1998 quoted “the condition of sovereignty does not substantively exist in most African states” in Harrison, 192–93.

²⁵⁸ Maroya 2003: 269 in Harrison, 192–93.

Further investigating the role of MNCs, their specific security infrastructure not only allows them to perform functions of extractive governance but gives them leverage to negotiate legitimacy as they are complemented by both public and private security apparatus. The sovereignty of concessions is a historical legacy as well as the result of lacking central governance and the willingness of the Kinshasa elite to discharge responsibility whether it is related to the provision of security or social programs. Furthermore, the use of security contractors makes the MNC hiring them able to skirt scrutiny on issues of human rights standards and international labor laws.²⁵⁹

With private security playing a role in political order, it is imperative that the security assemblages surrounding the current regime of extractive governance are investigated. With security being a central state function, which is offloaded to MNCs in the context of resource governance in the DRC, it is one of the issues on which we must broaden our conceptions of governance and influence in order to understand the situation and create meaningful changes in the patterns of resource governance. In the arena of resource governance around zones of extraction, there are multiple actors competing for public authority and using their leverage over security and insecurity to do so.

²⁵⁹ Schouten, "International Mining Corporations and Socio-Political Conflict in the DRC," 12.

6 CONCLUSION

The situation in the DRC is not new, nor is it fully understood by any one party. There are many competing narratives on the sources and solutions to the inequality, conflict and social, political and economic problems faced. However, short of the impossible task of fully understanding the complex situation and being able to determine the most correct or helpful narrative, the most realistic solution lies in taking a broad view of the issue. As Autesserre notes when talking about the Congolese elite and diaspora populations which she has interviewed, ‘many of them contend that their country is victim of a global conspiracy in which Western powers support neighboring states and foreign armed groups and fuel conflict on the ground in order to ease their access to Congolese natural resources.’²⁶⁰ While this narrative is viewed as a conspiracy, there is perhaps some truth to it. Similarly, there is truth to the perspectives of MNCs which believe that they are serving the local populations and helping the transition from a war economy to a more prosperous and developed economy.

Beyond building awareness about the complexity and history of the issue of resource exploitation in the DRC, I aim at reimagining how regimes of extraction are maintained. By implicating not only poor national legislature, widespread corruption and poor governance by the state but also seeing how international regulation and complicity in corruption by international actors and MNCs has sustained a colonial mindset of external authority over governance practices and resource wealth. Using the analytical frame of governance and exploring different ways of governing has shown throughout this research how governance has shifted theoretically and empirically over the last few decades. Gone is the ideal-typical Weberian nation state model and the replacement is much more difficult to define and conceptualize. This new governance takes on nuanced forms, outsources key functions like security and social services and can be an assemblage of actors engaged in the negotiation and legitimation of their own practices which serve not just nationalistic goals, but also pursue private interests.

The unique and deteriorating humanitarian situation in the DRC today, coupled with the failing democracy and the Kabila regime’s failure to adhere to scheduled elections²⁶¹ as well as the new mining laws of March 2018 make this year an extremely pivotal year in the future of resource governance in the DRC. Furthermore, there are concessions which have been in an exploratory phase, in the coming year MNCs will be evaluating whether or not they wish to industrialize the mining sector and thus create new zones of extraction similar to what we have seen in the discussion of Banro concessions and the Kibali gold mine. In this pivotal time, it is important to remember and emphasize the similarities between the colonial era extractive regimes and practices of governance and the ways in which MNCs in the DRC engage in negotiating their own governance and extraction. It is a time when it is important to establish the agency and ownership of Congolese resources by the Congolese people and reimagine the archipelization of extraction. This is spatially and politically a colonial mentality which has never been overturned. Without revisiting the conception of the eastern DRC as a zone of extraction from which the winning negotiator for legitimacy and power can profit, there will not be a meaningful change for the people living in dire poverty amidst some of the world’s largest natural resource deposits.

I have covered a range of topics which I felt were most important in exploring broader assumptions about what governance is in the DRC, about who governs extraction, what regulations there are and the purpose that they serve as well as who ultimately legitimizes the current regime of extractive governance. The answer to this is my key theoretical finding and an idea which I would like to explore in more contexts; the international community and consumers

²⁶⁰ Autesserre, “Dangerous Tales: Dominant Narratives on the Congo and Their Unintended Consequences,” 212.

²⁶¹ Masisi, “‘The Wars Will Never Stop’ - Millions Flee Bloodshed as Congo Falls Apart.”

legitimize the role of corporations in extractive governance through patterns of sustained consumption despite a growing knowledge of the risks and conflicts surrounding the extractive industries. Mining in the DRC is risky, yet incredibly profitable, and this is in the context of unique assemblages of governance and regulatory authority – this can be seen as a facilitating factor, but moreover, I believe that there is a certain unwillingness to see meaningful change on the part of political elite, international actors and corporations who are continually profiting from the situation the way it is. In the context of insecurity and lacking central governance there are those benefiting from the exploitation of cheap and abundant resources in the DRC and we can be sure it is not the communities around the concessions.

6.1 Suggestions & Further Research

The story of natural resource exploitation and governance is much larger than the DRC alone. It fits into a bigger picture of capitalism and globalization. The regimes of extractive governance that I have identified and analyzed in North and South Kivu and Ituri are present in many more provinces of the DRC, the surrounding countries and around the world. Because of the colonial history of the DRC there is a uniqueness to this story, but I believe that it is both academically and politically relevant to pursue a larger study of how MNCs are engaged in practices of governance around the resource rich zones of the world. The necessary linking of the zones of extraction and production to the zones of consumption is relevant in the extractive industries as well as the industry of human labor. The governance of these resources and resulting governance of economic, social, political and cultural life around these pockets of wealth is worth broadening in a similar fashion to how I have attempted to broaden the understanding of governance around mining concessions in the DRC.

In the current world order, the extractives are governed by regimes of restraint which are allowing if not facilitating the continuation of exploitative resource governance. Reconceptualizing regimes of restraint as regimes of responsibility – ‘based on a broad conception of governance that provides better links among transparency, accountability, and participation’ is the first step needed to change this. It is also necessary to overturn the ‘assumption that the benevolent hands of external actors can restrain local actors in natural resource domains’ and replace it with ‘creative efforts towards building strong African institutions that govern natural resources’²⁶² present within Africa rather than outsourcing the governance and thus profits to external actors in a quasi-colonial manner.

In the DRC in particular, there is no easy solution to radically change the current extractive regime, however, the suggestions that I have found the most relevant all revolve around localized agency and action. There needs to be a rethinking of how minerals can benefit the regions where they are located, allowing and facilitating the processing of minerals in DRC is one way that the country can profit off of their resources. Challenging the conflicts between LSM and ASM mining and attempting to build bridges between the two modes of extraction so that they can work in tandem is another way to legitimize local livelihoods and production within the framework of what is already happening in the zones of extraction. ASM projects frequently need the technical assistance which could be supplied by LSM operations in order to be more profitable, and environmentally sustainable. There are efforts in place to integrate these two modes of production,²⁶³ but I believe it is again a matter of shifting the responsibility to the MNCs working in the region to facilitate this transition.

²⁶² Khadiagala, “Global and Regional Mechanisms for Governing the Resource Curse in Africa,” 25.

²⁶³ Pelon and Walser, “Mining Together Large-Scale Mining Meets Artisanal Mining: A Guide for Action.”

6.2 Concluding Remarks

What started with an empirical dilemma over security around mining sites has become an inquiry into the regimes of extractive governance which have been sustained throughout the colonial and postcolonial history of the DRC by negotiated forms and practices of governance legitimized by the international community. Colonial governance was certainly legitimized differently than the ways in which MNCs legitimize their control of resources in the DRC today, but ultimately it is both the history of exploitation and complacency of the international community which are continually sustaining the validity of extractive regimes of governance. While the task of researching this topic was far from simple, I believe that there is both more work to be done on these topics and that there are many inspired individuals who will continue to enquire into these debates on governance, legitimacy and power and work for a better future for the DRC. Simultaneously, it is important for consumers to become more aware of the role of our patterns of consumption and how the MNCs, governments and individuals are involved directly and indirectly in sustaining the current extractive regime of governance which is impoverishing and subjugating a naturally rich country. I would like to take responsibility for my role in this and contribute another voice to a topic which is both important, and which has not received due justice.

In looking at the regime of extractive governance in the DRC and connecting the multinational mining corporations and the supply chain of commodities which are imported to the zones of consumption, I wish to connect the extractive zones to the consumptive zones. Rather than setting aside the atrocities of the DRC as taking place outside of our sphere of influence, I believe it is more useful to understand the role that the international community plays in extractive governance in the DRC and beyond. In order to do that we need to take a broader view of who and what constitute governance on a local level in the zones of extraction and take responsibility as consumers for the role we play in legitimizing this extractive governance through the consumption of products stemming from this complex supply chain. There is an importance to speaking about the kind of impact we want our purchases to have in the world, there are many places in the world which are isolated enclaves of resource wealth, but which are socially and economically deprived of the potential positive impacts of this wealth. This is because of the system of extractive governance in which corporations take on a role in complex hybrid governance structures to protect and facilitate their access to the resources available.

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List of interviews

Phone discussion with impact investor working in the mining sector in the DRC
21 March 2018, Konz Germany

Discussion with mining regulation and stakeholder engagement expert
15 April 2018, Luxembourg, Luxembourg

Phone Discussion with a trauma councilor who worked in the DRC
18 April 2018, London UK

Phone discussion with Industry Consultant working in DRC
03 May 2018, Konz Germany

Phone discussion with former UN Group of Experts on the DRC Christoph Vogel Discussion
16 May 2018, Konz Germany

Phone discussion with Labor Union Organizer with extensive experience in the DRC mining sector
18 May 2018, Konz Germany

Discussion with consultant on governance in DRC
22 May 2018, Konz Germany

Phone discussion with Dr and noted expert on the DRC
13 June 2018, Konz Germany

Phone discussion with DRC Labor Union representative
17 June 2018, Konz Germany

Phone discussion with OECD Secretariat
16 July 2018, Konz Germany

Interview with :
Organization :
Date :
Location :
Method :

GENERAL QUESTIONS

How is your work related to the mining industry in the DRC?

What does your organization (...) do?

Is artisanal mining or industrial mining more of a concern for regional prosperity and stability, in your opinion?

Do you see the mining industry as able to contribute to inclusive and conflict sensitive development in the DRC?

What are some of the biggest obstacles to conflict sensitive development which are unique to the political, social and economic climate of the DRC?

GOVERNANCE

Do you see mining companies contributing to governance in the DRC?

There are many problems of human rights abuses and exploitation in the artisanal mining sector of DRC as well as the industrial sector, do you still feel like artisanal mining has promise to have a better social impact than industrial mining?

Do you have any comments to make about the current political climate?

How do you think politics influence the ability for corporations to exert governance in the eastern regions of the country?

Do you see a comparable system of governance between the Belgian colonial Congo and some of the companies working there today?

How does the concession economy feed corrupt governance practices?

Do you see legacies of colonial governance in the mining today?

Which international presence is felt most in the extractive industry in DRC? Chinese? American? Israeli? Canadian?

What about companies? Which are most noticeable?

REGULATIVE FRAMEWORK

What regulative aspects are the most influential in the region? (In theory and in practice?)

How do you think the new mining laws of 2018 will affect the mining industry in DRC?

Will the new laws lead to a tense situation between the government and mining corporations? What about between local populations and the corporations? Or even between artisanal miners and the government?

How much will the new mining codes passed by Kabila this month change, postpone or abort the industrialization process?

Do rural communities around mining concessions have any access to complaints mechanisms? Do they know that it exists?

ECONOMIC IMPLICATIONS

Do you think that corporations are working to compensate for jobs lost in the artisanal mining sector?

Do you think that the artisanal mining sector is more difficult to regulate?

What do you know about the ways that mining concessions were awarded by Pres Kabila? Do you know anything about Dan Gertler's involvement?

Do you think the industrial mining sector in the DRC has deeper layers of corruption to it?

Illegal taxation of mining by armed groups can be seen as a way to show how minerals fund conflict in the DRC, is industrialization of the mining sector a way to combat this diversion of funds?

There is the economic factor of the impact it will make for artisanal mine workers to lose their livelihoods if the industry industrializes, aside from this, do you think that this will happen, or are there simply the wrong conditions in DRC for major industry?

SECURITY IMPLICATIONS

What leads more often to insecurity, mineral extraction on a localized artisanal level or industrial mining projects?

Do you think that the situation of insecurity in the DRC is partly created in order to facilitate the exploitation of resources?

Are economic and political actors on a local (or even international) level promoting conflict? For economic gains? To facilitate resource extraction?

The PNC/PMH are deeply embedded in the security hierarchy of mining companies, does this contribute to security in the regions where they operate or insecurity?

Do you see insecurity in the region stemming from the transition from artisanal mining to industrial mining?

What are the implications of the PNC/private security partnership for practitioners, aid organizations and communities affected by the industrialization of mining?

How are private security actors part of everyday life in the DRC? Is it a visible presence in mining regions?

SOCIAL IMPLICATIONS

Will industrialization of mining perhaps reduce the access to natural resources to fund a war economy?

What are some of the most prominent negative/positive impacts of developing an industrial mining economy in the eastern DRC?

How effective would you say community engagement in the mining industry is?

How can the expectations of CSR projects be managed?

How do you view the development industry in DRC?

Do you think that the development industry has anything in common with the type of CSR projects that mining companies sponsor/run?

Will mining industrialization lead to large scale displacement of residents around the concessions?

Will large scale mining industrialization lead to conflicts over land rights / land use?

Secondary to land rights issues, how will these displacements effect the social fabric of a given area?

How does mining effect the long(er) term investment that people are willing to make in their land and livelihoods? (example of farming)

Is helpful infrastructure brought in by industrial mines? Power? Roads? Are people who live in the community allowed to access this infrastructure?

Concession holder	Province	Permit Type
Adele NDALA	S Kivu	PR Permis de Recherches = Exploration Permit
Alain LUBAMBA WA LUBAMBA	S Kivu	PR Permis de Recherches = Exploration Permit
Alphamin Bisie Mining SA	N Kivu	PE Permis d'Exploitation = Exploitation Permit
Alphamin Bisie Mining SA	N Kivu	PR Permis de Recherches = Exploration Permit
Banro Congo Mining Sarl	S Kivu	PR Permis de Recherches = Exploration Permit
BMK Construction Sarl	S Kivu	PR Permis de Recherches = Exploration Permit
Bravura Congo SA	N Kivu	PR Permis de Recherches = Exploration Permit
Bravura Congo SA	S Kivu	PR Permis de Recherches = Exploration Permit
Chady Appart Sarl	S Kivu	PR -> PEPM
Claudine TABELLE	S Kivu	PR -> PEPM
Crown Mining Sarl	S Kivu	PR Permis de Recherches = Exploration Permit
Cyprien Kyamusoke Bamusalanga Nta'Bote	S Kivu	PR Permis de Recherches = Exploration Permit
Do KATULANYA ISU	S Kivu	PE Permis d'Exploitation = Exploitation Permit
DRC Resource Holdings LTD	S Kivu	PR Permis de Recherches = Exploration Permit
Emon Chalwe Ngwashi	S Kivu	PR Permis de Recherches = Exploration Permit
ETS Yea Hong	S Kivu	PR Permis de Recherches = Exploration Permit
Faustin Dunia Bakarani	N Kivu	PE Permis d'Exploitation = Exploitation Permit
Global Trading Services and consulting Sarl	N Kivu	PR Permis de Recherches = Exploration Permit
Global Trading Services and consulting Sarl	S Kivu	PR Permis de Recherches = Exploration Permit
Goldbelts Exploration and Mining	N Kivu	PR Permis de Recherches = Exploration Permit
Golin Mining Investment Sarl	N Kivu	PR Permis de Recherches = Exploration Permit
Group Neuf Company Sarl	N Kivu	PR Permis de Recherches = Exploration Permit
Group Neuf Company Sarl	S Kivu	PR Permis de Recherches = Exploration Permit
Intermines Sprl	N Kivu	PE Permis d'Exploitation = Exploitation Permit

Investissement & Developpement Immobiliers Sarl	N Kivu	PR Permis de Recherches = Exploration Permit
Jonathan MIRUHO NAMU SHOMBOZA	S Kivu	PR Permis de Recherches = Exploration Permit
Kalika Mining Sarl	S Kivu	PE Permis d'Exploitation = Exploitation Permit
Kamituga Mining	S Kivu	PE Permis d'Exploitation = Exploitation Permit
KGL Masters	N Kivu	PR Permis de Recherches = Exploration Permit
La Boissier SPRL	N Kivu	PR Permis de Recherches = Exploration Permit
La Terre Company	S Kivu	PR Permis de Recherches = Exploration Permit
Leda Mining Congo	S Kivu	PE Permis d'Exploitation = Exploitation Permit
Leda Mining Congo	S Kivu	PR Permis de Recherches = Exploration Permit
Leda Mining Congo	S Kivu	PR -> PE
Loncor Resources Congo SPRL	N Kivu	PR Permis de Recherches = Exploration Permit
Lugushwa Mining	S Kivu	PE Permis d'Exploitation = Exploitation Permit
Maison de L'Ordinateur	S Kivu	PR Permis de Recherches = Exploration Permit
Mango Tree Sarl	N Kivu	PR Permis de Recherches = Exploration Permit
Matcha Construct Sarl	N Kivu	PE Permis d'Exploitation = Exploitation Permit
Metal Chemical Sarl	N Kivu	PR Permis de Recherches = Exploration Permit
Mimiche Kamolo Sende	N Kivu	PR Permis de Recherches = Exploration Permit
Nako Mines	N Kivu	PR Permis de Recherches = Exploration Permit
Namoya Mining	S Kivu	PE Permis d'Exploitation = Exploitation Permit
Projet Zone D'exploitation Artisanale	S Kivu	ZEA Zone d'Exploitation Artisanale = Artisanal Exploitation Area
Projet Zone D'exploitation Artisanale	N Kivu	ZEA Zone d'Exploitation Artisanale = Artisanal Exploitation Area
Projet Zone D'exploitation Artisanale Institute	S Kivu	ZEA Zone d'Exploitation Artisanale = Artisanal Exploitation Area
Projet Zone D'exploitation Artisanale Institute	N Kivu	ZEA Zone d'Exploitation Artisanale = Artisanal Exploitation Area
Province de Sud Kivu	S Kivu	ZEA Zone d'Exploitation Artisanale = Artisanal Exploitation Area
Province du Nord Kivu	N Kivu	ZEA Zone d'Exploitation Artisanale = Artisanal Exploitation Area
Proxmin	N Kivu	PR Permis de Recherches = Exploration Permit

Regal SK SPRL	S Kivu	PR Permis de Recherches = Exploration Permit
Regal Sud-Kivu	S Kivu	PR Permis de Recherches = Exploration Permit
Robert Tshilombo KALOLO	N Kivu	PR Permis de Recherches = Exploration Permit
Societe Agro Pastorale et Minier du Kivu	N Kivu	PR Permis de Recherches = Exploration Permit
Societe Aurifere du Kivu et du Maniema "Sakima Sarl"	N Kivu	PE Permis d'Exploitation = Exploitation Permit
Societe Aurifere du Kivu et du Maniema "Sakima Sarl"	S Kivu	PE Permis d'Exploitation = Exploitation Permit
Societe generale d'Exploitation de Cassiterite et Accompagnateurs	N Kivu	PR Permis de Recherches = Exploration Permit
Societe Generale des Mines et Carrieres Sarl	N Kivu	PR Permis de Recherches = Exploration Permit
Societe Generale des Mines et Carrieres Sarl	S Kivu	PR Permis de Recherches = Exploration Permit
Societe Industrie Miniere Xinyan de Tongliao	N Kivu	PR Permis de Recherches = Exploration Permit
Societe Minier de Bisunzu	N Kivu	PE Permis d'Exploitation = Exploitation Permit
Societe Minier de Bisunzu	N Kivu	PR Permis de Recherches = Exploration Permit
Societe Minier de Bisunzu	S Kivu	PR Permis de Recherches = Exploration Permit
Societe Olive	S Kivu	PE Permis d'Exploitation = Exploitation Permit
Societe Olive	S Kivu	PEPM
Societe Olive	S Kivu	PR Permis de Recherches = Exploration Permit
Societe Rotax Interational Sarl	S Kivu	PEPM
Somaf Corporation SA	S Kivu	PR Permis de Recherches = Exploration Permit
Spill Congo Sarl	S Kivu	PR Permis de Recherches = Exploration Permit
Sylvain PALUKU LOLWAKO	N Kivu	PE Permis d'Exploitation = Exploitation Permit
Tangan Yika Minerals SA	N Kivu	PR Permis de Recherches = Exploration Permit
Tangan Yika Minerals SA	S Kivu	PR Permis de Recherches = Exploration Permit
Techno Build	S Kivu	PR Permis de Recherches = Exploration Permit
TSM Enterprise Sarl	S Kivu	PEPM
TSM Enterprise Sarl	S Kivu	PR Permis de Recherches = Exploration Permit
Twangiza Mining	S Kivu	PE Permis d'Exploitation = Exploitation Permit

WB Kasai Investments SPRL	S Kivu	PR Permis de Recherches = Exploration Permit
Zhengwei Technique Cooperation Sarl	S Kivu	PR Permis de Recherches = Exploration Permit
Zhishou Business Consulting LTD	N Kivu	PR Permis de Recherches = Exploration Permit