



Mining Reform, Governance and the State in the Democratic Republic of the Congo

The traces 'conflict-mineral' policy
left behind on natural resource
governance in Katanga

Jose A. Diemel

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This research was funded by the WOTRO Science for Global Development programme of the Netherlands Organisation for Scientific Research.



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Cover and thesis layout: Oscar van den Boezem

Cover illustration: Jose A. Diemel, November 2017, Artisanal cobalt miners near a mine site in Kambove district, Haut-Katanga, DRC

Printed by: GVO-Ede

ISBN 978-90-6490-087-7

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The traces ‘conflict-mineral’ policy left behind on natural resource governance in Katanga

Mijnbouw hervormingen, bestuur en de staat in de Democratische Republiek Congo

De sporen die ‘conflict-mineralen’ beleid naliet op natuurlijke grondstoffen bestuur in Katanga

Thesis

to obtain the degree of Doctor from the
Erasmus University Rotterdam
by command of the Rector Magnificus

Prof.dr. R.C.M.E. Engels

and in accordance with the decision of the Doctorate Board

The public defence shall be held on
Thursday 4 October 2018 at 16.00 hrs

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‘A desk is a dangerous place from which to view the world.’

John le Carré, *Tinker Tailor Soldier Spy* (1974)

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Acknowledgements

The weird thing about a PhD is that it become a kind of ‘life defining activity’. There is a before-PhD time. The time before I had done fieldwork in remote mining areas, before I published papers and before I had lived in the DRC for five years. Over the past few years I have at times also been looking very much forward to the life after-PhD. A life where my head would finally be ‘turned-off’ once in a while. A life with more time for friends and family, and new exciting projects in which I could use the experience I gathered over the years and put it into practice. Obvious there is also the time in between those two. In other words the PhD-time itself. And that’s the time I wish to write about here, the time and the people who have played a special role in it.

First, I would like to express my appreciation to the WOTRO Science for Global Development programme of the Netherlands Organisation for Scientific Research, the Wageningen University and the International Institute of Social Studies in The Hague. Their funding of this research project has made it possible for me to do extensive fieldwork and travel to many interesting areas in the DRC.

My sincere thanks goes out to all the informants who took time and trusted me to share valuable insights and information under sometimes sensitive circumstances. A special thanks goes to the Indian MMR team in Lubumbashi, Lubudi and Bukama who have gone out of their way to facilitate travels and my fieldwork, and made staying in ‘la brousse’ a great experience. I want to thank Jennifer Barrett for all her (language) editing work, Marieke van Acker for her French translation of this thesis’ summary, and especially Oscar van den Boezem for his patience and artistic work that has turned this academic piece of black and white pages into a fancy-looking book.

Several people have played an important role at the start of this endeavour. When I doubted in 2012 whether I wanted to commit four years of my life to a single project, Karin Boven, my manager at the Dutch Ministry of Foreign Affairs, convinced me that doing a PhD would be a great opportunity. Having done a PhD herself, she assured me it would be a great experience and that once I would have finished my PhD the world would be at my feet. So I decided to go for it. Marisse Courant, thank you for helping to clear my head at the beginning of 2013 so that it could be filled again with countless positive Congo experiences. Santa, Dr. Michel and Yvette, for your hospitality and help with the first steps of my fieldwork in and around Kolwezi. And Professor Donatien Dibwe dia Mwembu, the head of the *Observatoire du Changement Urbain* in Lubumbashi for your very kind help facilitating access to the field and preparing my official research paperwork, which allowed me to travel around Katanga without any significant problems.

I am grateful to have had the chance to work with the Down to Earth team on this research. Thea Hilhorst, Koen Vlassenroot, Dennis Dijkzeul, Gemma van der Haar, Jeroen Cuvelier, Claude Iguma and Marie-Rose Bashwira; I have really appreciated our collaboration, and the research workshops at the Wageninse Berg, in Gent, Lubumbashi and Kalemie. It has been an inspiration to be around all of you and to brainstorm together on research avenues, analytical

frameworks and policy recommendations. During the first years at Wageningen University I enjoyed being around my fellow PhD-candidates all working on different topics but facing similar PhD issues to be solved. Claude, Rose, Bodille, Winnie, Rens, Luna, Anisa, Teddy, Gloria, Martijn it has been a pleasure to have done this PhD process simultaneously to yours. Bodille Arensman, joking and complaining with you about the academic world, editors and the dazzling theoretical possibilities, has been one of the best parts of this PhD journey. Our amusing whatsapp sessions have kept me sane, especially when at times it was hard to imagine the end of our projects. Wendy, Carolien and Bart your positive vibes always made it a pleasure to spend time at our department in Wageningen.

My thanks go to Andre Lisongomi, Dhanis Rukan and Cyrille Lupembwe, who have helped making the fieldwork for this research throughout Katanga an accomplishment. Cyrille, thank you so much for introducing me to Bukama's inhabitants, authorities and history. For accompanying me to the various mine sites, extending our collaborate research and making me feel safe travelling everywhere together on your motorbike. But especially for encouraging me when we hit rock bottom in Luena, police commanders started harassing us or informants seemed unmotivated to share their perspectives. I will remember : 'faire la recherche c'est comme creuser. Il y en a des périodes ou tu ne trouves rien, mais d'un coup tu trouveras l'or'. You are a wise man.

My special thanks are for Jeroen Cuvelier, my co-promotor who turned out to be quite a nice guy to have a beer with. I have laughed a lot about your often brilliant metaphors and sometimes nearly devastating expert experiences; How you would tell me 'your manuscript is like a *monster*, you have to kill it (read: hand it in) as in time it only grows bigger and bigger'. The time you advised me to 'not over-decorate the *Christmas tree*' when I once again had tried to include too much data in a paper. 'Take out some of the decoration. Make sure we can still distinguish the tree itself'. Or when you assured me that 'it is only at the end of your PhD that you actually know how you should have conducted your research and written your dissertation'. But mostly I want to thank you for always being just a few minutes away for academic advice via skype or whatsapp, despite the distance between Gent and Lubumbashi. Our skype conversations and your detailed comments often formed a relief. They inspired and motivated me to pick up new things and ideas and assured me that I was on the right track.

I want to express my gratitude to Thea Hilhorst, my promotor. Thea thank, you for putting faith in me at the start of this project and for trusting me to find my ways in Congo. For your personal involvement when things got a bit difficult at the end of 2012 and for being flexible when I decided to stay in Congo in 2015, while you would have liked me to continue my work at the Radix. Mostly though I want to thank you for providing me the chance to learn from your impressive analytical skills. I remember one time when I had been sweating on a paper draft for months. We made an appointment, and I find out 30 min before our meeting that you had not yet read the paper. 'Is it in my inbox?' You asked, 'Alright than I'll start reading it right now'. A bit troubled I have to admit, I started our discussion being quite convinced that in only 30 min no one would be able to read the whole paper, grasp the argument and come up with useful comments. But then . . . you did. As always, you quickly pointed out the problems, and clearly indicated how to improve my argument and the structure of the paper. It is impressive and inspirational. I am grateful to have had the chance to learn from you. Your liveliness and enthusiasm have given the research process a very positive vibe. And even though our chair group situation in 2012 might not have been the most vibrant one to start your PhD in, I have

not once regretted my decision to have chosen you as my professor, to stuck with it and to have moved along with you to ISS.

Loes, thank you for having been so patient and supportive to my PhD over those last two years. For managing to create time slots in our busy work schedules to write on my dissertation, but especially for showing me the great glimpses of after-PhD work possibilities. It is a great pleasure to learn and work together with you and make the seemingly impossible slowly possible.

Thanks to all my friends: Sanne, Gwen, Jeroen, Emma, Iris, Margriet, Menno, Marcel, Michiel, Lars, Artan, Tim, Lezan, Bodille, Vera, Annelies, Martijn, Emile, Lieselot en Fief, Maarten, Ron en Veronka, Sarah Maggie, Renske, Mbachi, Guy, Sarah, Rufus, Mandy, Fin, Touma, Colin, Sile, Danny and Micheal, for making these five years of my life such a good time, as numerous of you did long before and hopefully will continue to do for many years to come.

Fleur en Oscar, Jonathan, Anne, Roos, Pedro, Valentijn, Linda, dank jullie voor al onze gesprekken over werk-privé balans, over Congo en onze toekomstplannen. Voor jullie liefde en openheid, gezelligheid en voor alle jaren dat ik jullie nu al ken.

Papa en Mama, Marja, Tim, Rembrandt, Marije, Manuel en Daan, dank jullie wel voor alle gezelligheid en liefde over de afgelopen jaren dat Chris en ik in Congo verbleven. Papa en Mama voor jullie bezoek aan Lubumbashi eind 2014, zodat ik jullie kon laten zien hoe Congo is. Maar vooral voor jullie interesse, het urenlang aanhoren van mijn gebrabbel over het onderzoek en Congo. Jullie talloze steeds weer nieuwe vragen om te proberen te doorgronden waar mijn proefschrift nou precies overgaat, zelfs toen ik het zelf nog niet precies wist. Voor jullie moed om me terug te laten gaan naar Congo in 2013, bezorgd te zijn zonder mij jullie zorgen te laten mee dragen. Jullie vertrouwen, me de ruimte te geven mijn eigen weg te vinden en trots op me te zijn. Kortom, te begrijpen dat de wereld lonkt.

Chris, I know you think acknowledgements are for sissies, and too emotional for cool people like you. Nevertheless, you will not escape these pages and cannot avoid being mentioned here together with Casper, as the last, most important in line. Thank you for joining me on this trip. For being flexible and adventurous enough to immediately say yes, when I asked you move to Africa. For accompanying me during fieldwork in Luena, handing out cigarettes to creuseurs and making people feel at ease while I was conducting interviews. For putting things in perspective when I became too stressed over these last 12 months. But most of all for discovering Congo together, for being there and sharing you with me.

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Acronyms and Abbreviations

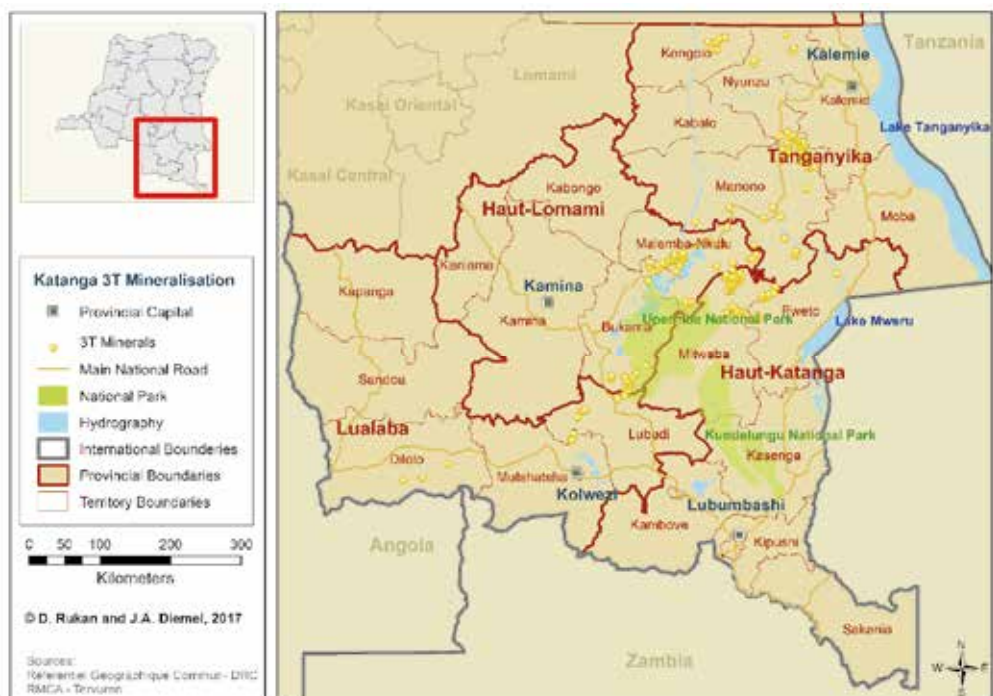
3T	Tin, tantalum and tungsten
3TG	Tin, tantalum, tungsten and gold
AFDL	Alliance of Democratic Forces for the Liberation of Congo-Zaire
ANR	<i>Agence Nationale de Renseignement</i> (National Intelligence Agency)
ASM	Artisanal and small-scale mining
BGR	<i>Bundesanstalt für Geowissenschaften und Rohstoffe</i> (Federal Institute for Geosciences and Natural Resources)
CAMI	<i>Cadastre Minier</i> (Mining Registry)
CDMC	<i>Coopérative des Artisansaux Minières du Congo</i> (Artisanal Mining Cooperative of Congo)
CdN	<i>Centres de Negoce</i> (Trading centres)
CEEC	<i>Centre d'Evaluation, d'Expertise et de Certification des Substances Minerales Precieuse</i> (Centre for Mineral Evaluation, Expertise and Certification)
CFTI	Conflict Free Tin Initiative
CFS	Conflict Free Smelter Programme
CHEMAF	Chemicals of Africa
COMIDEK	<i>Coopérative Minière et Development du Katanga</i> (Mining and Development Cooperative of Katanga)
CTC	Certified Trading Chains
DFID	Department for International Development
DRC	Democratic Republic of the Congo
EICC	Electronic Industry Citizenship Coalition
EC	European Commission
EITI	Extractive Industries Transparency Initiative
EMAK	<i>Entreprise Minière Artisanale du Katanga</i> (Artisanal Mining Enterprise of Katanga)
EP	European Parliament
EU	European Union
FARDC	<i>Forces Armées de la République Démocratique du Congo</i> (Armed Forces of the Democratic Republic of the Congo)
FC	<i>Francs Congolaise</i> (Congolese francs)
GAM	Global Advanced Metals
GAO	United States Government Accountability Office
GECAMINES	<i>Société Générale des Carrières et des Mines</i> (General Enterprise for Quarries and Mines)

GÉOMINES	<i>Compagnie Géologique et Minière des Ingénieurs et Industriels Belges</i> (Geological and Mining Company of Belgian Engineers and Industrials)
GeSI	Global e-Sustainability Initiative
HPO	Hybrid political order
ICGLR	International Conference on the Great Lakes Region
IOM	International Organisation for Migration
IPA	Interpretive policy analysis
IPIS	International Peace Information Service
IT	Information technology
ITRI	International Tin Research Institute
iTSCi	ITRI Tin Supply Chain Initiative
MMR	Mining Mineral Resources
MONUSCO	<i>Mission de l'Organisation des Nations Unies pour la Stabilisation en République Démocratique du Congo</i> (The United Nations Organisation Stabilisation Mission in the Democratic Republic of the Congo)
MoU	Memorandum of understanding
MSC	Malaysia Smelting Corporation
NGO	Non-governmental organisation
OECD	Organisation for Economic Co-operation and Development
OPJ	<i>Officier de la Police Judiciaire</i> (Judicial Police Officer)
PMH	<i>Police des Mines et Hydrocarbure</i> (Mining and Hydrocarbons Police)
PPA–RMT	Public–Private Alliance for Responsible Mineral Trade
PROMINES	<i>Projet d'Appui au Secteur Minier</i> (Project for Mining Sector Support)
PSES	Partnership for Social and Economic Sustainability
RCM	Regional Certification Mechanism
SAESSCAM	<i>Service d'Assistance et d'Encadrement de Small-Scale and Artisanal Mining</i> (Service for the Assistance and Organisation of Small-scale and Artisanal Mining)
SEC	Securities and Exchange Commission
SfH	Solutions for Hope
SIPRI	Stockholm International Peace Research Institute
SKT	Sino–Katanga Tin
STAREC	Stabilisation and Reconstruction of Zones Emerging from Armed Conflicts
TIC	Tantalum–Niobium International Study Centre
UK	United Kingdom
UN	United Nations
UN GoE	United Nations Group of Experts
UN SC	United Nations Security Council
US	United States
USD	United States dollar

USAID
WB–DRC

United States Agency for International Development
World Bank–Democratic Republic of the Congo

Map 1: Tin, tantalum and tungsten mineralisation in Katanga



Map 3: Mining licenses in Bukama/Lubudi

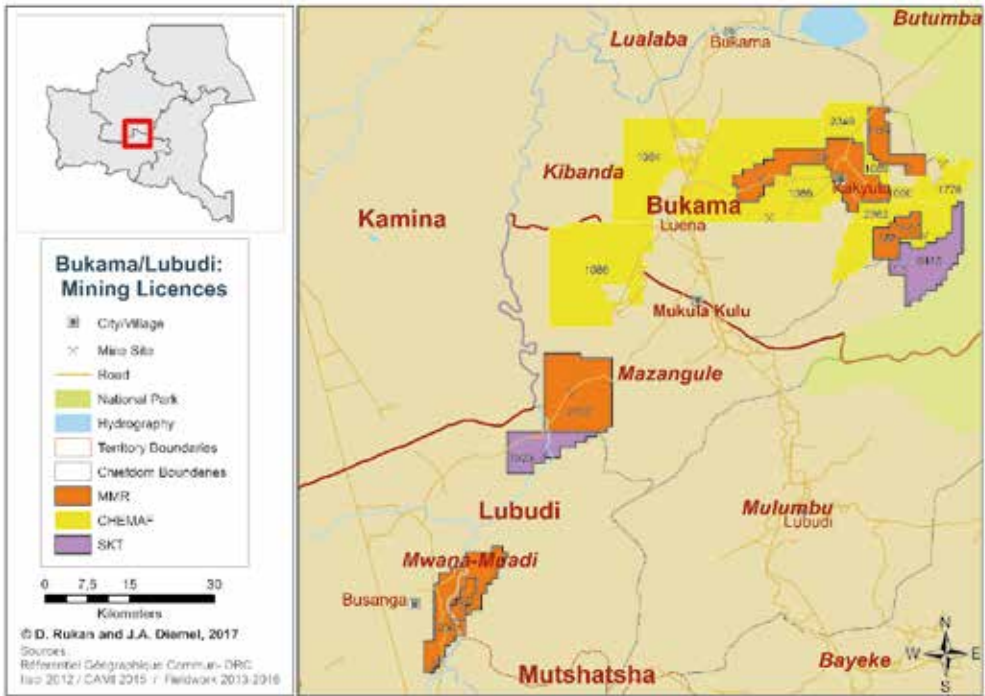


Photo: Jose A. Diemel, January 2018, artisanal cobalt miners with their mineral production, in Kambove district, Haut-Katanga, DRC



Introduction

‘Ministry of Mines, please. You know the address?’, I asked the taxi driver. He responded affirmatively. It was 2013, and these were my first weeks of fieldwork in the Democratic Republic of the Congo (DRC) studying the impact of ‘conflict-mineral’ reform interventions on the Congolese artisanal mining sector. I was in Lubumbashi, the capital of the mineral-rich Katanga region in southern DRC, and my research assistant and I had just drafted a letter requesting a meeting with the Provincial Minister of Mines, which we were about to drop off with his secretary.

Ten minutes later, the taxi stopped in front of a small building with the text ‘Ministry of Agriculture, Fisheries and Livestock Farming’ painted on the main wall. I sighed and told the taxi driver, ‘We would like to go to the Ministry of Mines, like I told you. Not the Ministry of Agriculture’. ‘It is here, Madame; it is the same ministry’, he responded. A bit startled by the curious combination of ministries, we entered the building.

Apart from a sleeping secretary, we found a deserted workplace with little activity. Getting a meeting with the minister proved challenging. After a couple of phone calls, cancelled meetings and a lot of waiting, we decided to give up on the meeting with the Provincial Minister and focus on other interviews. A few months later, though, in 2014, we obtained the phone number of the minister’s chief of staff, tried again and arranged for an interview. However, once we arrived at the ‘Ministry of Agriculture, Fisheries and Livestock Farming’, we were told that the Ministry of Mines had moved and had become part of the ‘Provincial Ministry of Mines, Environment, Youth and Tourism’.

Now even more puzzled, I became familiar with the fascinating composition of the provincial ministries. Curiously, it turned out that the mines portfolio had been part of three different provincial ministries since 2008, moving from Urban Development, Housing and Land Affairs (2008–2013) to Agriculture, Fisheries and Livestock-Farming (2013–2014) to Environment, Youth and Tourism (2014–2016). Over the past six years, no less than four ministers¹ had filled the post of Provincial Minister of Mines in Katanga.

Although efforts to organise a meeting with the Provincial Minister never materialised, these attempts and visits to the two ministries provided great insight into the remarkable position of the Ministry of Mines within provincial and national governance dynamics.

I started using this incident as an anecdote during the interviews, asking interviewees to describe the current position of the Provincial Ministry of Mines within Congo’s wider

¹ Barthélemy Mumba Gama (2008–2010), Juvénal Kitungwa Lugom (2010–2013), Thérèse Lukenge Kapwibw (2013–2014) and Audax Sompwe Kaunda (2014–2016)

natural resource governance dynamics. As a result, I learned that the Provincial Ministry of Mines was commonly referred to as the '*Ministère ambulant*' ('the travelling Ministry'), indicating the Ministry's ambivalent and unstable nature and functioning. This early incident also helped to increase my understanding of the DRC's natural resource governance realities in more general terms. I came, for example, to understand that, surprisingly, most provincially based state mining services (such as *Service d'Assistance et d'Encadrement de Small-Scale and Artisanal Mining*, SAESSCAM) did not directly report to the Provincial Minister of Mines, but rather had reporting lines straight to the Provincial Ministry's national counterparts in Kinshasa. Additionally, it did not take long to notice the severe lack of financial support in recent years from the central state to the growing local state apparatus around the mine sites.

These initially surprising local–provincial–national interactions must be understood in a broader political and fiscal light. Although the position of Provincial Minister of Mines was created simultaneously with the installation of the first Katangese provincial government in 2007, the Mining Law promulgated in 2002 did not anticipate this role. This has left the Provincial Minister with little substantial power and an ambiguous role. Tensions between the provincial and national levels were exacerbated by the fact that the devolution of administrative authority to the province since 2007 has not been accompanied by a devolution of fiscal authority. Although the Katanga province was entitled to receive 40% of locally raised national revenues back from Kinshasa through a process called 'retrocession', high officials in the province claimed to receive, at most, 5%–10% of this retrocession in reality.² As a result and motivated by a sense of entitlement, the Katangese government circumvented the prohibition of provinces directly taxing mining exports, introducing two regulations that were not officially recognised to tax mineral transport and the export of non-concentrated minerals in the province.³ These actions had a considerable impact on the provincial budget. Kinshasa's unwillingness to give Katanga more autonomy should also be understood in light of the political tensions between the Kabila regime and former Katangese governor Moïse Katumbi. Dissatisfaction with Kabila's rule grew in Katanga (and elsewhere in the country) after he showed his intention to stay in power beyond his term and postponed the December 2016 presidential elections. This dissatisfaction reached its peak when former governor and Kabila-proponent Katumbi openly spoke out against Kabila and declared his own presidential candidacy in April 2016 (Hoebecke, 2016).

Apart from these fiscal and political tensions between the provincial and national government levels, I also became aware of the remarkably prominent role played by the private sector in the facilitation of natural resource governance. Somewhat stunned, I tried to get my head around these newly revealed complexities. Trefon's (2009) and Rubbers' (2007) descriptions of 'the malfunctioning Congolese administration' came to mind and began to

² Interviews with several provincial Katangese deputies, as well as high officials at SAESSCAM, *Division des Mines* and the National Ministry of Interiors in Kinshasa, Lubumbashi and Kalemie, from March 2013 to April 2016.

³ Edit №0001 du 23 mai 2008 Taxe provinciale d'intervention en matière de réhabilitation des infrastructures urbaines de voirie et drainage ainsi que les routes d'intérêt provincial ; Edit №0001 du 20 avril 2010 Taxe provinciale sur les produits miniers concentrés

make sense. But did these dynamics, the ambiguous role of the Provincial Minister and the lack of financial resources indicate a ‘weak’ or ‘collapsed state’, as the Congolese state is so often labelled in academic writing (Reno, 2001; Zartman, 1995)? What did these dynamics reveal about the interest of the local and national Congolese state? And why had the private sector started to fill the governance voids left open by the Congolese state? Still, the complexity also made me wonder whether there might be a deliberate strategy behind these complex governance dynamics and the apparent ‘weakness’ of the Congolese state—an instrumentalisation of political disorder, in the words of Chabal and Daloz (1999), to avoid the emerging of strong institutions and to further privatised interests.

Although I did not necessarily find immediate and clear answers to those questions, during those first weeks of fieldwork, I became intrigued by the complex interactions among various levels of the Congolese state and additional governance actors, and I realised that those fascinating governance dynamics should form the background of my doctoral research on the impact of conflict-mineral reform interventions in the DRC.

1.1 Conflict minerals and the Congolese conflict

The phrase ‘conflict minerals’⁴ refers to coltan, cassiterite and wolframite originating from mining areas in the DRC,⁵ whose extraction, trade or transport is said to benefit armed groups to finance their operations in the ongoing conflict in the region. All three minerals are frequently used in electronic technology: Tantalum (produced from coltan ore) is used by capacitor and chip manufacturers such as AVX, Intel and KEMET; tin (produced from cassiterite ore) is used mostly in solar cell solders, alloy coatings and lead–acid batteries; and tungsten (produced from wolframite) is used in transistors and electrodes. The phrase ‘conflict minerals’ surfaced for the first time a bit over a one and a half decades ago, when the international community laid the first fundamentals for addressing the worrisome link between the ongoing Congolese conflict at the time and the country’s mining sector.

In 2001, the Congolese conflict had been raging for more than four years and continued to a worrisome extent, especially in the eastern parts of the country. The conflict had cost the lives of millions of Congolese citizens, and even larger parts of the population suffered from extreme violence and were forced to flee their homes.

Also worrisome was the increased involvement of armed groups in the extraction and trade of minerals in the eastern Kivu and Ituri provinces. This involvement of armed groups in the illicit minerals trade turned out to be especially lucrative in the coltan sector; during a short-lived ‘coltan-boom’⁶ in 2000–2001, the world coltan price increased tenfold because of

⁴ Conflict minerals are often referred to as 3T minerals, indicating the metals tin, tantalum and tungsten, processed from cassiterite, coltan and wolframite ores, and gold originating from mining areas in the Great Lakes Region.

⁵ Also from the African Great Lakes Region in broader terms

⁶ During this period, the sudden rise in coltan prices pushed thousands of members of the poor Kivu population into what Cuvelier and Raeymaekers (2002) call a ‘gold rush for coltan’. This move towards a new form of survivalist economics not only radically changed the livelihood strategies of Kivu residents; it also ‘economised’ Congo’s mineral wealth into a financial means for warring parties, as Steven Jackson has argued (2002).

the decreasing worldwide supply and rapidly rising demand from the electronics industry (Cuvelier and Raeymaekers, 2002; Jackson 2002).

The two Congo wars

The First Congolese War started in September 1996, instigated by a range of socioeconomic, political and ethnic factors. Tensions concerning land rights and the political status of the *Banyamulenge*, a minority Tutsi group in the Kivu provinces, reached its peak in 1996 and played a key role in the run-up to the First Congolese War in 1996. The Rwandan genocide of 1994, which resulted in a large number of Rwandan Tutsi and moderate Hutu refugees fleeing the country and ending up in Zaïre (now DRC), also played a decisive role. The enormous humanitarian crisis, as well as the ethnic conflict, spilled over into Zaïre when Rwandan, Ugandan and Burundian rebel movements started using the refugee camps near Goma, eastern Zaïre, to launch military operations against the established political regimes in their homelands (Reyntjens, 1999: 242).

Faced with the passive response of Zaïre and its president (Mobutu Sese Seko) to these movements, the Rwandan, Uganda and Burundian governments started to provide financial and military support to the Alliance of Democratic Forces for the Liberation of Congo-Zaire (AFDL), a Congolese rebel movement led by Laurent Désiré Kabila, in an attempt to counter the assaults. Kabila, backed by these neighbouring allies and determined to put an end to 32 years of authoritarian and economically disastrous rule by Mobutu, led a multinational army to victory in May 1997. He took over Zaïre's capital of Kinshasa, toppled Mobutu, renamed the country the Democratic Republic of the Congo and proclaimed himself president (Reyntjens, 1999: 242–245).

The conflict resumed and destabilised the region even more in 1998, when Kabila and his former allies turned against each other, and the Second Congolese War came to involve additional African countries, including Zimbabwe, Angola and Namibia. Despite a ceasefire agreement signed by the warring countries in 1999 in Lusaka and the deployment of a United Nations peacebuilding mission (the United Nations Organization Mission in the Democratic Republic of the Congo) the violent conflict continued in the eastern parts of the DRC for the next two decades.

Linking perfectly to the academic ‘greed and grievance’ debate emerging at the end of the 1990s, international pressure groups started to draw attention to the economic agenda of the Congolese warring parties. Influential scholars studying conflict all around the world, such as Collier and Hoeffler (2000) and Berdal and Malone (2000), argued that conflicts in general are more likely to be caused by economic opportunities—or, in other words, ‘greed’ (e.g. for natural resources)—than by grievance. Consistent with this line of reasoning, international advocacy groups such as Global Witness and Partnership Africa Canada started campaigns highlighting how rebel groups in eastern DRC fought over the control of coltan mines and how they used the revenues from the coltan trade to finance the ongoing conflict.

Highly concerned by the ongoing violent conflict that jeopardised the stability of the region as a whole and pressured by the international campaigns, the United Nations Security Council mandated a special Group of Experts to investigate the alleged link between the illegal extraction of natural resources in the DRC and the continuation of the conflict in 2001. The first Group of Experts report, published in April 2001, indicated large-scale mineral smuggling from eastern DRC to neighbouring countries including Burundi, Uganda and

especially Rwanda. This report implicated both Western companies and Congolese warlords in illicit coltan trade deals. Most worrisome was how this illegal exploitation of minerals financially benefited armed groups and hence fuelled the continuation of violent conflict (UN Group of Experts, 2001).

Shocked by the findings of the United Nations April 2001 report, civil society groups started to raise awareness about the troublesome link between Congo's conflict and the illegal trade in coltan. A group of Belgian NGOs, for example, launched a campaign called 'No blood on my mobile! Stop the plundering of Congo!' in June 2001. Linking the African conflict to Western consumer products such as cell phones, this campaign drew attention to the role of European enterprises in fuelling Congo's conflict through the illicit coltan trade (Nest, 2011: 126). In the following years, multiple research reports (Cuvelier and Raeymaekers 2002; Pole Institute, 2002; Global Witness, 2005) were published confirming the complicity of European companies and the involvement of Rwandan actors in the illicit coltan trade.

Worldwide attention on the issue of conflict minerals skyrocketed in 2009, when the Enough Project, a US-based research and advocacy NGO mobilising public campaigns on peace, human rights and the link between war and natural resource trafficking in sub-Saharan Africa, posted YouTube videos⁷ on conflict minerals. The videos starred Hollywood celebrities such as Nicole Richie, who link the use of Western consumer products to extreme cases of sexual violence and other human rights violations occurring in eastern DRC.

1.2 Conflict-mineral reform interventions

International campaigns put pressure on governments and multinationals to stop this looting of Congolese conflict minerals and to prevent the trade in those minerals from financing the war efforts of armed groups. As a result, parliamentary hearings (in Belgium, Uganda and other countries) and multi-stakeholder meetings were organised, and both African and Western policy makers started to look for ways to make international mineral trade more transparent.

Towards the end of the first decade of the 2000s, ensuring responsible mineral supply chains became a major priority on the Congolese and international policy agendas. Many policy makers and industry leaders at the time found a source of reference in the Kimberley Process Certification Scheme, which was launched in 2003 with the aim of preventing the rough diamond trade from financially benefiting civil war combatants in Sierra Leone, Liberia and Angola. This scheme was generally perceived as successful at the time. As a result, a wide array of national and international legislation, guidelines, and more practical traceability and certification schemes were launched from 2009 to 2011 to address the issue of conflict minerals in the African Great Lakes Region.⁸ The Congolese government, which faced high levels of informality in the 3T mining sector, introduced new legislation in 2010.

⁷ <https://www.youtube.com/watch?v=1alnuvr9bhM> (20 May 2009); <https://www.youtube.com/watch?v=q55DJlclsnM> (15 May 2009); <https://enoughproject.org/videos/prendergast-why-conflict-minerals> (May 2010)

⁸ For an extensive list and explanation of the various conflict-mineral initiatives, see Chapter 4.

A joint decree⁹ signed by the national Ministry of Mines and Ministry of Finance aimed to extend state oversight over 3T mineral supply chains and to increase related tax revenues. The decree dictates extensive traceability measures, including obligatory documents, such as the ‘*bon d’achat*’¹⁰ and ‘*bon de sortie*’,¹¹ required at different stages throughout the mineral supply chain, from the mine pit to export.

In the same year, additional legislative documents were released by the Congolese government. For example, a mineral export tax¹² was introduced to restrict the free movement of minerals between neighbouring provinces, and artisanal mining ‘*en solo*’¹³ was prohibited, effectively leading to the emergence of new cooperatives¹⁴ and a reduction of mineral transactions.

Simultaneously, the movement and transactions of international traders, smelters and end-producers was restricted by Section 1502 of the in 2010 Dodd–Frank Wall Street Reform and Consumer Protection Act (US Congress, 2010). The Act requires companies sourcing from the DRC and surrounding countries to verify the origin of their minerals, making sure that their extraction does not involve human rights violations or conflict. Seven years later, after a lengthy negotiation process, the European Union introduced similar legislation in May 2017, requiring European Union-based importers of raw tin, tantalum, tungsten and gold (3TG) material from conflict-affected and high-risk areas to set up a due diligence system before 21 January 2021 (Cuvelier, 2017).

In 2011, the Organisation for Economic Co-operation and Development (OECD) launched guidelines proposing a five-step system for companies to exercise due diligence throughout their supply chains (OECD, 2011). The International Conference on the Great Lakes Region (ICGLR) provided a Kimberly Process-inspired certification system for ICGLR member states to certify mine sites and mineral traders operating in their territories (ICGLR, 2011b). The Congolese government adopted the international certification and due diligence standards (2012),¹⁵ as well as the ICGLR export certificate (2013) into national law.

To implement these various guidelines and legislation, numerous initiatives were developed to facilitate ‘responsible’ sourcing. This included initiatives enabling traceability through the supply chain, such as the widely implemented International Tin Research Institute (ITRI) Tin Supply Chain Initiative (iTSCi), which provides a means for companies sourcing minerals from the DRC to prove their chain of custody does not contribute to armed conflict. This chain of custody tracking system, which aims to determine the origin of minerals and track them along the supply chain, is a joint initiative by the tin (ITRI) and tantalum (Tantalum–Niobium International Study Centre) industries that builds upon the existing ‘*bon de sortie*’ system used by the Congolese government.

⁹ *L’Arrêté interministériel* N° 0711/CAB.MIN/MINES/01/2010 et N° 206/CAB/MIN/FINANCES/2010

¹⁰ Purchase voucher

¹¹ Exit voucher

¹² *Arrêté Provincial* N° 2009/0035/KATANGA du 9 Octobre 2009 instituant les modalités de transfert de la cassiterite et ses accompagnateurs de la Province du Katanga vers d’autres Provinces

¹³ On an individual basis

¹⁴ *Arrêté Ministériel* CAB.MIN/MINES/01/ N° 0975/2011 du 18 Octobre 2011 : Installation des coopératives minières dans les Zones d’Exploitation Artisanale. Les coopératives minières installées sur les zones d’exploitation artisanale dans les nouvelles limites déterminées par le SASSCAM Province du Katanga

¹⁵ *Arrêté Ministériel* N0058/CAB.MIN/MINES/01/2012 and *Arrêté Ministériel* N0057/CAB.MIN/MINES/01/2012

These interventions vary in terms of whether they are voluntary or mandatory, whether they are initiated by the private or public sector, and whether they operate on upstream mine sites or aim to regulate trade further downstream in the chain. However, they all have in common a shared economic approach to the peacebuilding problem. Each of these initiatives builds upon the idea that conflict-funding is to be reduced through the regulation and close monitoring of the 3TG mineral trade.

The initiatives also jointly give a large role to the Congolese state in the resolution of the problem. They share the conviction that natural resource governance will be improved by bringing oversight over 3T mineral supply chains ‘back’ under central Congolese state control. Congolese state agents are expected to implement and oversee the certification and traceability schemes on the ground. These state agents are expected to visit and validate all Congolese 3T mine sites, certify each mineral trader and export load, and tag every individual mineral bag with a unique barcode at every mineral trading or export interaction.

1.3 Research objective, justification and questions

1.3.1 Impact of conflict-mineral interventions

In recent years, a great deal of research has been published by different institutes and scholars studying the impact of the conflict-mineral initiatives described above. An important part of the literature discusses the effectiveness of these interventions. Reports such as those of the Enough Project (2014), ITRI (2015b) and the United States Government Accountability Office (2015), as well as the mine site maps developed by the International Peace Information Service, a Belgian research organisation, have evaluated the interventions’ positive impact mainly in quantitative terms, discussing a decrease in the militarisation of Congolese 3T mine sites, the number of mine sites certified or the large number of cooperatives established since the introduction of conflict-mineral policy.

Other existing work has critiqued conflict-mineral policy for its unintended—and mainly negative—consequences. Much work has highlighted the devastating effect of the 2010–2011 mining ban on artisanal mining, which heavily impacted artisanal miners’ livelihoods and the surrounding economies (Bashwira, 2017; Geenen, 2012; Parker et al., 2016; Seay, 2012). Other scholars have noted the changing mineral trade patterns that have largely benefitted large-scale mineral buyers but restricted small-scale operators’ access to the mineral trade (Cuvelier et al., 2014; Diemel, 2016; Freudenthal, 2017; Iguma, 2017). Researchers have also pointed out how conflict-mineral policy has caused militarisation to move away from cassiterite and tin mines towards the gold sector (OECD, 2015) and has replaced direct militarisation with the trend of indirect armed involvement in 3T mines through family networks (Cuvelier et al., 2014).

Although this literature provides interesting insights and outlines how policy intentions often diverge from the actual outcomes, it is also largely limited to a discussion of effectiveness and (unintended) outcomes alone. From the policy maker’s perspective, it makes sense to want to measure the effectiveness of their policy and to be informed about its unintended consequences. However, such an approach does not shed much light on *how*

policy outcomes come about. It also does not capture the more subtle, less measurable and often indirect consequences of conflict-mineral interventions.

The analysis of conflict-mineral policy impact should go beyond measuring effectiveness and mapping unintended consequences. In the end, it is not only important to know *whether* conflict-mineral policy has achieved its objectives, but also to understand *why* it has or has not achieved these objectives. Therefore, this dissertation aims to study *how* and through *which processes* conflict-mineral policy outcomes have come about.

This research objective is particularly interesting considering the DRC's complex governance context, which conflict-mineral policy aims to reform. Considering the 2013 fieldwork anecdote at the start of this introduction raises questions about how the Congolese state and other governance actors have responded to the request for mining sector reform, and how the reform has affected them. How have Congolese state institutions and their agents picked up the rather extensive conflict-mineral certification and traceability tasks? And what traces have these reform initiatives left on Katanga's already complex governance context, where law and order are fluid concepts (Vlassenroot and Raeymaekers, 2008), the central state has a limited territorial reach and public administration is largely malfunctioning (Englebert, 2003; Rubbers, 2007; Trefon, 2009)?

The objective of this dissertation is thus to provide insight into the processes through which policy outcomes come about, putting natural resource governance at the centre of the analysis. The question central to this research is as follows:

How have conflict-mineral interventions affected Katanga's 3T natural resource governance and the relative position of the Congolese state therein?

1.3.2 The nature of conflict-mineral policy

To be able to provide insight into these processes, this dissertation starts by taking a closer look at the conflict-mineral policy interventions themselves. What do they actually entail and propose? How do they perceive the problem of conflict minerals? What are the policies' objectives and intentions? And how do these policies present the mining sector, the ongoing conflict in the DRC and the Congolese context in more general terms?

Scholars studying these conflict-mineral policies have already pointed out the necessity of not taking the nature or underlying assumptions of the reform policies for granted. These scholars have, for example, identified the conflict-mineral policies' misperceptions of the link between conflict and the mineral trade (Autesserre, 2012; Seay, 2012); misrepresentation of Congo's mining sector as criminal, militarised and unregulated (Koddenbrock, 2012; Nest, 2011); and incorrect association of the Congolese state's weakness with the absence of governance (Radley and Vogel, 2015).

The first part of this dissertation aims to add to this body of literature through a thorough and systematic analysis of the following specific research questions:

1. *How do conflict-mineral policies frame the problématique of conflict minerals, and which assumptions are interwoven into the policies about the problem, its proposed solution and the context in which the policies are intended and expected to work?*
2. *How has conflict-mineral policy evolved during the course of its implementation?*¹⁶

1.3.3 Policy negotiation and Katanga's natural resource governance

The second, and largest, part of this dissertation focuses on the workings of policy, studying how the 'social life of policy'¹⁷ has determined its outcome. The dissertation approaches policy as an external entity that provokes a process through which the policy becomes negotiated into the pre-existing natural resource governance order throughout Congolese mine sites and along mineral trading and transport routes.

This dissertation aims to provide insight into this 'black box' of policy negotiation, as well as the traces it has left on Katanga's natural resource governance order. This objective is translated into the following specific research questions:

3. *Through which processes (including which objects, arenas and actors) has conflict-mineral policy become negotiated into Katanga's existing socioeconomic and natural resource governance realities?*
4. *What do these negotiations and their outcomes tell us about the interests and strategies of the actors involved?*
5. *How is Katanga's natural resource governance order affected by the implementation of the policy initiatives?*
 - a. *What regulatory arrangements and (re-)attributions of state authority have emerged as a result of conflict-mineral policy implementation?*
 - b. *How has the implementation of conflict-mineral policy affected the power positions, relationships and interdependencies of governance actors?*

¹⁶ Stepputat and Larsen (2015: 14) highlight that studies on global (policy) processes often risk overlooking how 'local' processes effectively inform or shape the 'global' framework. This is a very valid point, but this dissertation primarily focuses on outlining how (transnational) policy has impacted (local) natural resources governance. Although this simultaneous (inverse) process is not the main focus of the present research, this dissertation will, in a secondary manner, reflect upon the impact of (local) natural resource governance dynamics in Katanga on conflict-mineral policy—or more specifically, on changes in the policy's focus over time.

¹⁷ This concept is further explained in the following section.

1.4 Analytical framework: policy and governance¹⁸

In seeking to answer to the above research questions, this study approaches policy by combining insights from literature on interpretive policy analysis, development sociology and policy anthropology.

Rather than presenting policy as an instrument to address a set problem and re-direct society, this dissertation follows the development sociology and policy anthropology schools of thought, seeing policy as a process with a ‘social life’ of its own (Colebatch, 1998; Hilhorst, 2003; Long, 2001; Mosse, 2004). The research follows Long (2001) in stating that policy in itself is not necessarily the central driver of change. Instead, the outcome of an intervention is determined by the continuous negotiation among various actors with differing interests and influences that occurs when policy enters a new reality. By approaching policy in this way, this research acknowledges not only the agency of policy makers, but also the roles of both policy implementers and recipients in influencing the outcome of policy (Hilhorst, 2003; Lipsky, 1980; Long, 2001; Yanow, 2012).

This research follows the interpretive policy analysis literature, recognising that policy is shaped by the views and values of those designing it and is thus likely to have multiple and sometimes contrasting meanings (Colebatch, 2009; Yanow, 2012). This means that, although policy may be designed to understand and address social phenomena, it indirectly mobilises values and legitimises a certain course of action, and it is subject to multiple possible interpretations (Colebatch, 1998; Mosse, 2004; Yanow, 2000).

Thus, a policy intervention, including its various meanings, assumptions and problem definitions, enters into a certain reality with pre-existing logics of action and historically grown power relations (Rubbers, 2013: 9). Deploying this policy provokes a process through which the policy becomes negotiated and affects the pre-existing socioeconomic and political realities (Hilhorst, 2003; Long, 2001; Mosse, 2004), an important one of which is natural resource governance.

This dissertation approaches the negotiation of policy into Katanga’s governance realities as an ‘open moment’, during which ‘the social rules and structures are suddenly challenged and the prerogatives and legitimacy of politico-legal institutions cease to be taken for granted’ (Lund, 1998: 2). Chapters 4 through 7 demonstrate that the notion of an ‘open moment’ is very applicable to the situation of mining reform in Katanga, as the implementation of conflict-mineral initiatives not only redefined and redirected mineral trading chains, but also affected the positions, legitimacy and authority of both public and private governance actors. Approaching mining reform in Katanga as an ‘open moment’ allows for the study of the renegotiation of the fragile equilibrium of Katanga’s governance order, including a potential reshuffling of relations, interdependencies, the emergence of regulatory arrangements, a change in normative beliefs and the (re-)attribution of authority.

¹⁸ Chapter 2 provides a more elaborate overview of the literature on policy and governance, and discusses the conceptual framework of this dissertation in more detail.

There are a multitude of ways to describe the concept of governance. The definition used throughout this dissertation distinguishes between governance as a negotiation process and governance as an order (i.e. the outcome of the negotiation process).

Specifically, as it is used in this dissertation, governance is defined as *a negotiation process through which state and non-state actors organise to manage public resources and accomplish (a certain) governance order, involving the making and implementation of decisions, enforcement of rules and resolution of conflicts.*¹⁹ Such a governance order is *a specific, but never definitely formed, configuration of governance actors' relations and interdependencies that, through a set of regulatory arrangements, normative beliefs and attributed authorities, organise to manage public resources.*²⁰

The process of governance thus occurs in every local socio-political reality on a continuous basis. In the case of the Congolese artisanal mining sector, such processes of negotiation might concern, for example, the provision of access to mine sites, but also structures of tax levying or the responsibility to provide basic public services. In other words, these processes of negotiation occur on a daily basis, even without external policy interventions entering Congo's local realities. When conflict-mineral interventions are implemented and enter Congo's local realities, they become an integral part of these governance processes, having the ability to alter the governance order of which they have become a part. The concepts of both policy and governance are discussed more fully in Chapter 2.

1.5 Methodological choices²¹

This research takes a multi-sited political ethnographic approach (Schatz, 2009a; Stepputat and Larsen, 2015) to studying the negotiation of conflict-mineral policy into Congolese natural resource governance realities. In doing so, it puts everyday (Kerkvliet, 2009) governance practices, narratives, perceptions and strategies of actors such as state officials, mining communities and mineral buyers vis-à-vis these policy interventions at the centre of its analysis.

The decision to conduct a multi-sited ethnography was motivated by the fact that the research topic involves an 'ethnographic research site' that extends beyond a single location such as provincial state offices or a 3T mine site. Instead, this dissertation follows policy as a theme connecting various research sites along the 3T mineral supply chains in Katanga. These sites include the coltan and cassiterite mines of Bukama territory, the mineral trading hub of Luena, and the mineral export depots and administrative offices in Lubumbashi and Kalemie.

In this research, special attention is paid to the role of the state in governance processes. As the Congolese state is a multi-layered, pluri-centred collective of institutions, the research operationalises the analysis of the state by focusing on three particular state

¹⁹ This definition of governance is based on work of Raeymaekers (2007), Colebatch (2009) and Kassimir (2001).

²⁰ This definition and its advantages are further discussed in Chapter 2.

²¹ Chapter 3 provides a more elaborate overview of the methodological considerations, reflections and ethics related to this dissertation's research.

mining services²² that play a central role in the implementation of conflict-mineral interventions—namely, SAESSCAM,²³ *Division des Mines* (the Mining Division)²⁴ and *Police des Mines et Hydrocarbure* (the Mining Police).²⁵ Looking at the daily practices and interactions of these services, this research draws upon Hagmann and Péclard's (2009) analytical framework, studying the negotiation of policy into Congolese governance realities at different 'tables' and in different 'arenas', including multiple state and non-state actors using their repertoires, and concerning different 'objects of negotiation'.

Following Shore and Wright's (2011: 11) definition of a 'field' as 'a social and political space articulated through relations of power and systems of governance', this study defines 'field' as the ensemble of conflict-mineral policy interventions. It strives to investigate the amalgam of conflict-mineral legislation, guidelines and practical initiatives as a whole. This approach is taken partly because of the study's interest in the collective impact of these conflict-mineral policy interventions, but also for the practical reason that, at this point in time, eight years after implementation started, it has become nearly impossible to disentangle conflict-mineral policy interventions and treat them separately in terms of results or effects.

As ethnography is a 'relational, subjective endeavour [...] through which the ethnographer becomes involved in, and is knowledgeable of, the social harmonies and tensions of the field' (Stepputat and Larsen, 2015: 19), ethnographic studies demand attention be paid to ethical considerations. The present research approaches these issues with the perception of 'ethics as an ongoing exercise' (Fujii, 2012: 717). This means that, throughout the fieldwork, to avoid misguided expectations, the purpose of the research and the researcher's identity were openly discussed at every new engagement. Additionally, precautions were taken on a continuous basis to ensure confidentiality of the research participants and gathered data. Ethical considerations are discussed in greater length in Chapter 3 on the study's methodology.

²² The Mining Registry (*Cadastre Minier*) and the Center for Mineral Evaluation, Expertise and Certification (CEEC) also play a role in conflict-mineral initiatives implementation, in promoting mining property security and in ensuring/certifying conflict-mineral free mineral export, respectively. However, as both the Mining Registry and the CEEC play a less explicit role in the implementation at mine site level, the main focus of this research is on SAESSCAM, the Mines Division and the Mining Police.

²³ The *Service d'Assistance et d'Encadrement de Small-Scale and Artisanal Mining*, established in 2003, provides assistance to artisanal miners through training and technical support at the mine site level. At the provincial level, it promotes the development of artisanal mining into small-scale, semi-mechanised mining. Within conflict-mineral initiatives, it plays an active role in mineral trade registration and the tagging of mineral bags with unique barcodes at the mine site level to facilitate traceability.

²⁴ The Mining Division is responsible for the inspection of mining activities at the mine pit level for both artisanal and industrial mining. Its geological department conducts studies, and other departments administer mineral flows, compile production statistics and authorise mineral evacuation and export. Within conflict-mineral initiatives, it plays an active role in mineral trade registration and the tagging of mineral bags with unique barcodes at the mineral depot level to facilitate traceability.

²⁵ The Mining Police's main tasks at the mine site level are keeping order in general, mediating disputes, and addressing smuggling and theft. At the mine site, mineral depot and provincial levels, the Mining Police verify the correct handling of minerals and related paperwork, co-authorising mineral evacuation and export, together with the Mining Division.

1.6 Dissertation outline

The organisation of this dissertation's research data is structured around four themes (chapters) that together allow for a contextualised and empirically grounded analysis of the impact of conflict-mineral policy on governance. The choice of the themes was based on recurring observations and stories encountered during preliminary fieldwork that puzzled and startled me, as they did not easily match my expectations or previous academic work on policy and governance. The following four themes became the hinges around which this dissertation and its various chapters are structured:

- *Conflict-mineral policy objectives*: The finding that policy interventions, aiming to reduce the suffering of Congolese mining communities, paradoxically had rather a detrimental impact on those peoples' livelihoods and access to mineral extraction and trade;
- *Paradoxical policy implementation across DRC's provinces*: The fact that conflict-mineral policy interventions, aiming to address the link between the mineral trade and the proliferation of armed conflict, were in large part implemented in the Congolese provinces least affected by conflict;
- *Access to the 3T mineral trade*: The highly complex and multi-levelled arrangements on access provision to mineral extraction and trade, which took several months to fully understand; and
- *Governance and legitimacy*: The puzzling observation that Bukama's mining communities refrained from protest against the predatory behaviour of local state services, while openly questioning and resisting the practices of large-scale mineral buyers, who paradoxically aided the mining population in terms of social development and facilitated local state functioning.

The remaining part of this dissertation is structured as follows. Whereas this introductory chapter has already briefly discussed the theories and concepts central to this research, Chapter 2 provides a more elaborate overview of the academic literature on both public policy and governance, and develops an analytical framework for exploring the effects of national and international reform policies on local governance orders in the DRC.

Chapter 3 goes into more depth on the methodological decision to conduct a multi-sited political ethnography to study the implications of policy for Katanga's natural resource governance. This chapter also explains the geographical delimitation of the Bukama case study and discusses fieldwork reflections and ethical dilemmas in more detail.

Chapter 4 then introduces the domain of conflict-mineral policy. It provides an overview of the most relevant national and international interventions and, by means of a discourse analysis of a selection of the reform policies, it aims to understand how these policy interventions represent the problem of conflict minerals, the solutions they envision and their proposed plans.

Chapters 5 to 7 study the effects of conflict-mineral policy on Katanga's local governance orders, and especially the position of local state institutions therein. Chapter 5 addresses a strikingly paradoxical feature of the reforms, namely that the interventions meant

to address conflict in mining areas are, ironically, mostly implemented in Katanga province, which is the least affected by conflict. Studying a group of highly influential public and private actors in the province, the chapter outlines how their collaboration developed in a different direction from what was anticipated by the policy interventions.

Chapter 6 studies the redefinition of access to the mineral trade in Bukama resulting from the implementation of conflict-mineral reforms and highlights how the central state's limited territorial reach and the absence of clear legal frameworks have resulted in the emergence of locally negotiated access arrangements and a redirection of access-granting authority towards local state institutions.

Chapter 7 addresses the position of local state institutions vis-à-vis both citizens and the private sector. This chapter outlines how new conflict-mineral regulations have resulted in an extension of the local state apparatus, as well as large-scale mineral buyers settling in Bukama's mining areas. It examines how these changes have altered governance dynamics, including the private sector's engagement in natural resource governance and how this has affected the relationship between local state institutions and the mining population.

Finally, the concluding chapter (Chapter 8) draws conclusions answering this dissertation's central research questions. This chapter reflects on the implications of the study's findings for theoretical debates on public policy and governance, as well as for conflict-mineral policy interventions. The chapter also makes recommendations for further research.

Photo: Jose A. Diemel, February 2015, a SAESSCAM agent tagging a bag of cassiterite with an iTSCi-tag in Kyenze village, before minerals are transported by the negociant (left), in Bukama district, Haut-Lomami, DRC



Theoretical debates and analytical concepts

To embed the empirical findings and guide the analysis of the case of a natural resource in the DRC, this chapter develops an analytical framework for exploring the effects of national and international reform policies on local governance orders. The chapter's aims are twofold: First, the chapter discusses the academic literature on public policy embedded in the fields of development sociology and interpretive policy analysis, emphasising the fluidity of policy processes, which have a social life of their own. These bodies of literature inform an important theoretical point of departure for this dissertation—namely, that the negotiation process among various actors emerging when policy enters a new social reality is important in the determination of policy outcomes. Second, the chapter outlines the theoretical discussions around the phenomenon of governance (order), with a specific focus on settings of limited statehood. This literature emphasises the importance of non-state actors in ordering public life, the roles played by the state in such settings, and how authority and additional regulatory frameworks might be formed through these processes.

Bringing the bodies of work on policy and governance into conversation with each other, the introduction of new policy can be seen as an 'open moment' through which current structures are reshuffled, positions are retaken, voids surface, new conflicts arise, and negotiation to resolve conflicts and re-create order leads to a reconfiguration of the governance order, including re-defined positions and relations among the various actors involved.

2.1 Policy

2.1.1 Pre-1970s public policy analysis

The policy model dominant in political science in the 1950s was instrumental-rational in character. It perceived policy to be a linear, logical and neutral entity based on policy makers' well-informed decisions to solve practical societal problems (Colebatch, 1998, 2009; Yanow, 2012)—an instrument to redirect society and change the course of its constituents' behaviour. This interpretation of policy as a 'purposive course of action' (Colebatch, 1998: 43–52) was common to political science until the 1970s. Policy was believed to be divided into a linear set of stages, beginning with problem identification, then moving to the determination of an appropriate solution, then implementation, and finally the evaluation and adjustment of the policy to increase its effectiveness (Shore and Wright, 2011: 4, 8, 20). This is an

interpretation described by Shore, Wright and Pero (2011: 4–8) as ‘authoritative instrumentalism’.

Deriving from the motivation to increase the effectiveness of policy, the study of public policy was developed in the 1960s and 1970s (Rivlin, 1970; Wildavsky, 1979) in response to Lasswell’s (1951) call for the assessment of the impact of policy. The domain of policy studies in these first years was ‘explicitly normative and evaluative’ (Colebatch, 2009: 58), perceiving people as mere ‘targets’ and confining agency in policy processes to legislators’ decisions (Yanow, 2012: 5–6). The analysis in these studies focused on quantifying policy intentions and implemented outcomes to compare them and used cost–benefit analysis as one of its main tools to predict optimal outcomes. Consequently, the frequent mismatches between legislative intentions and implementation realities were attributed to either faulty policy design or inept bureaucracies (Yanow, 2012: 7).

In this same line of thought, policy studies portrayed state bureaucracy simply as a vehicle for giving effect to the choices of political leaders (Colebatch, 2009: 59). Based on Weberian administration theory, these studies saw a strict dichotomy between a political, well-deliberated process of decision-making at the front end and an apolitical executive administration at the back end of the process, as Yanow (2012: 7) described it.

Over the years, this approach has been criticised by scholars from multiple schools of thought, and the assumptions central to policy evaluation studies were contradicted one by one.

2.1.2 Street-level bureaucrats

The clear-cut Weberian politics–administration dichotomy was challenged in the late 1970s and early 1980s by a newer form of policy analysis that was more empirically based. Lipsky (1980), in his analysis of the practices of ‘street-level bureaucrats’, and Pressman and Wildavsky (1984), in their analysis of the implementation of federal development programmes in Oakland, broke with the idea that public administrators are neutral policy implementers. ‘Street-level bureaucrats’ such as teachers and law enforcement officers, as intermediaries between the legislators and the constituents, have to negotiate their position, and therefore do not always act to maximise the implementation of policy goals. In contrast to earlier implementation studies, Lipsky’s and Pressman and Wildavsky’s empirically grounded research suggested that policy is shaped by these deviant bureaucrats’ practices and is exposed to their local interpretations. State bureaucracy was thus no longer seen as a neutral vehicle for bringing about political leaders’ choices, but rather as an entity *making* policy itself (Lipsky, 1980).

2.1.3 Policy meaning and interpretation

Interpretive policy analysis (IPA), a field of study rising in the 1990s, identified another important shortcoming within previous policy analysis. IPA considered the positivist distinction between facts and values in policy analysis flawed and demonstrated that multiple and sometimes conflicting meanings and interpretations of a societal problem and its solution could coexist in parallel (Putzl and Treib, 2007: 99). IPA stressed that policy processes—like

any other social construct—are ‘an avenue of human expressiveness (of identity, of meaning)’ and thus subject to multiple possible interpretations (Yanow, 2012: 12–17).

Emanating from the work of, amongst others, Yanow (2000), Hajer and Wagenaar (2003), and Fischer (2003), the field of IPA thus drew specific attention to the role of interpretation and value, and argued that policy formulation and implementation could not be properly understood without grasping the policy’s relevant meaning (Wagenaar, 2007: 429). In placing the production of meaning at the centre of the analysis, IPA does not ask only *what* policy means, but especially *how* policy means (i.e. the processes through which meaning becomes communicated) (Yanow, 2000). The deconstruction of meaning and interpretation in policy comes in different forms, with studies focusing on different entities within policy language, ranging from metaphors (Van Hulst, 2010), to narratives (Yanow, 2000), to categories (Swaffield, 1998; Yanow, 2003), to frames (Bacchi, 2009; Schön and Rein, 1994; Verloo, 2005).

This focus on the interpretation of meaning as ‘read’ and passed on by various audiences (policy actors, implementation agencies and target populations) countered the positivist denial of the agency of the recipients of policy. Just as Lipsky (1980) had already highlighted in relation to bureaucrats, recipients of policies were, in the words of Yanow (2012: 6) ‘not sitting ducks just waiting for policy to hit them’. Rather, they were conditioned not simply by policy but also by many other societal factors and interpretations of their social context. Additionally, the pivotal role of meaning and interpretation in IPA affected how this school of thought approached the social problems underlying a policy development process. Pre-1970s mainstream policy evaluation studies perceived social problems as readily identifiable and objective in nature, and they assumed that governments were there to *solve*—or at least *react* to—those problems (Bacchi, 2009). IPA, in contrast, draws attention to how policy problematises a certain issue, arguing that this could matter in terms of effects and implications. IPA questioned whether a specific ‘policy problem’, and thus discursive policy practices, were framed ‘right’ (Bacchi, 2009; Verloo, 2005; Yanow, 2000). IPA thus encouraged a rethinking of the way policy problems are conceptualised and proposed a paradigm shift from ‘problem-solving’ towards ‘problem-questioning’.

2.1.4. From policy discourse to policy practices

In the 1990s and early 2000s, the assumed linear–instrumental character of policy was critiqued by scholars linked to schools of thought including development and policy anthropology. Scholars such as Mosse (2004, 2005), Shore and Wright (1997, 2011), Colebatch (1998), and Hilhorst and Frerks (2002) deny a direct connection between policy discourse and implementation practices, and demand recognition of the multiple actors and sources of authority in a policy process, and hence of the fluidity of its outcome (Colebatch, 2009: 65).

Although policy may have positive socioeconomic effects, these effects are often ‘equivocal, unexpected or contradict legitimizing policy models’, Mosse (2005: 19) argues. While perceiving policy as a ‘purposive course of action’ might be valid (Colebatch, 1998: 43), it is also incomplete, as empirical research demonstrates. Policy action does not automatically follow from policy design and decisions, and it is often difficult to distinguish

between policy design and implementation practice (Colebatch, 1998: 8, 111; Hilhorst and Frerks, 2002). Based on these findings, it is argued that, to better understand the workings of policy, one needs to look at the relation between policy and implementation (i.e. the relation between policy objective and policy action) (Colebatch, 1998; Mosse, 2004). Moreover, Hilhorst (2003) stresses that all outcomes of policy may need to be explained. There is a tendency to focus explanation on policy failure but we should equally be interested in the question why some outcomes are successful according to the objectives. It is therefore important to analyse policy in a symmetrical way (Law, 1994). So-called ‘successful’ policy also deserves analysis.

Policy does not simply start with officially claimed objectives that are followed by action. Rather, it is more of a social process than an outcome (Colebatch, 1998; Hilhorst and Frerks, 2002; Hilhorst and Jansen, 2010; Mosse, 2004). This process is patterned and shaped in action by a wide range of participants (Colebatch, 1998: 13; Hilhorst, 2013) who translate policy goals into practical interests and practical interests back into policy goals (Mosse, 2004: 647). From this perspective, policy should be perceived as a cycle rather than a linear process connecting A to B. Colebatch (1998: 9) even argues that the statement of an official policy goal is just the beginning of the policy process; policy goals merely set the scene for the interaction that comes next. As he clearly summarises, ‘Policy is not a thing apart existing on a somewhat airless plateau. Rather, it is a point of relative firmness built into a continuing flow’ (Colebatch 1998: 8–9).

2.1.5 The social life of intervention

The idea that policy is a social endeavour produced by practice is also echoed by the schools of development sociology and anthropology. These schools’ analytic interest is more focused on international development interventions, in contrast to IPA and the anthropology of policy schools, which have mostly studied European and United States-based policy design and implementation. Nevertheless, development sociology shows a clear resemblance to the critiques raised by the previously described schools of thought, acknowledging that policy becomes shaped through the actors involved.

Norman Long, one of the most well-known originators and advocates of the actor-oriented approach and the founding father of the Wageningen School of Development Sociology, claims that, although social change regularly results from an external intervention such as policy, the intervention itself is certainly not the only factor causing the change. Rather, it is the interplay between external and internal actors when policy enters local dynamics that ultimately determines the outcome of an intervention (Long, 2001: 13). This interplay, which is a social process of negotiation, takes place at so-called ‘interfaces’, where the social world of the intervention meets and interacts with the social world of the affected actors and social groups.

Echoing Lipsky’s and IPA’s demand for the recognition of the agency of policy implementers and policy recipients, Long thus claims that intervention ‘target groups’ are not passive aid recipients whose behaviour is determined by organised sets of rules, norms and values. Rather, these recipients carve out room for manoeuvre and mediate, transform and negotiate the intervention by means of coordinated or uncoordinated modes of actions,

practices and discourses²⁶ (Long, 2001). Hilhorst and Jansen (2010), like Long, attribute agency to aid recipients and perceive them as active participants within a ‘humanitarian arena’, shaping and negotiating the outcome of humanitarian aid or development and reflecting upon their experiences, norms and interests.

Consequently, the analytical problem becomes understanding the process through which interventionist policy ‘enters the lifeworlds²⁷ of individuals and groups affected and thus becomes part of the resources and constraints of their social strategies’ to translate the policy for local conditions through interactions and negotiations with external actors (Long, 2001: 13).

2.1.6 Contemporary policy evaluation

Despite decades of academic debate on the fundamentals of policy and a wide range of criticism from various fields of study, the linear–instrumentalist interpretation of policy still appears to persist among many policy professionals.

In contemporary policy evaluation documents and debates, such as reports of the Organisation for Economic Co-operation and Development (OECD), the United States Government Accountability Office (GAO) or the International Tin Research Institute (ITRI), a private sector institute, it is still possible to identify the underlying assumption that developments in a given policy area—intended or unintended—have a direct relation to a planned policy intervention.

This assumption has serious implications for the way policy is evaluated by these institutions. Evaluation programmes or impact studies are often short-term, limited in time and usually conducted only at the completion of a funding period. Additionally, policy success and unintended consequences are evaluated by means of a limited set of measurable and pre-determined indicators. ITRI reports, for example, measure policy achievements based on the number of mines covered in the ITRI Tin Supply Chain Initiative chain of custody scheme or the increased number of members in this initiative. Although the GAO and OECD mention the devastating effects of the mining embargo in the Kivus and Maniema from 2010 to 2011 as a consequence of conflict-mineral policy, they also tend to evaluate this impact mainly in quantitative terms (the number of armed groups present at the mine sites, the number of mine sites certified, the number of cooperatives established since the introduction of conflict-mineral policy, etc.).

Such an approach to evaluating both intended and unintended policy outcomes on the basis of a limited set of measurable indicators is understandable in terms of time and financial constraints. However, this approach risks providing a distorted and often overly positive view of policy impact, as it does not capture the more subtle, less measurable and often indirect consequences of the intervention, which come about during the negotiation of the

²⁶ According to Long (2001: 52–53), ‘discourse’ refers to ‘sets of meanings, metaphors, representations, images, narratives and statements that advance a particular version of “the truth” about specific objects, persons and events’.

²⁷ This research uses a definition of ‘life worlds’ that builds upon Long’s (2001: 240–243) definition: ‘Life worlds’ are ‘lived-in’ social worlds embracing social knowledge, intentions, evaluative models, and types of discourse and social action by which actors continuously self-assemble and re-evaluate their relationships and experiences.

intervention into local dynamics. For example, there can be effects on governance structures or mentality changes caused by policy implementation.

2.1.7 The research approach to policy

To analyse the impact of conflict-mineral policy and capture its subtler and more indirect consequences, the present study draws on the combined insights into policy provided by IPA and the schools of development sociology and policy anthropology, which together provide a comprehensive framework for critical policy analysis.

This dissertation perceives policy as a fluid process with a social life of its own, rather than a fixed instrument to redirect society. This study recognises that policy is ‘an avenue of human expressiveness’ (Yanow, 2012: 12–17), shaped by the views and values of those designing it. Further, this research acknowledges that, although policy might be designed to explain and understand social phenomena, it indirectly mobilises values, legitimises a certain course of action and is subject to multiple possible interpretations (Colebatch, 1998; Mosse, 2004; Yanow, 2000). Additionally, the study recognises the agency of both the implementers and the recipients of policy to influence the policy outcome. The research follows Long (2001) in stating that policy, in itself, is not necessarily the central driver of change. Rather, policy is seen as an extra element that enters a complex social field that is already structured by certain logics of action and historically grown power relations (Rubbers, 2013: 9). In this view, it is the interaction that takes place among a large group of varied actors when policy enters a social–political reality that, in the end, determines the outcome of an intervention (Long, 2001).

This chapter has drawn, in part, on the work of scholars writing in the critical policy analysis tradition, building upon Foucault’s concept of governmentality. Authors such as Colebatch (1998), Ferguson (1994), Mosse (2004), and Shore and Wright (1997) deny the idea that policy is a value-free process. They perceive policy as ‘a technical discourse concealing hidden purposes of bureaucratic power or dominance’, as described by Mosse (2005: 2), and argue that policy is not only used to explain and understand social phenomena, but that policy consequently validates, classifies, labels and legitimises action (Colebatch, 1998: 13; Shore and Wright, 2011: 2–3). Quoting Shore and Wright (1997: 6), Mosse (2004: 644) summarised the concept of governmentality as ‘a type of power which both acts *on* and *through* the agency and subjectivity of individuals as ethically free and rational subjects used in order to regulate social life and makes subjects and citizens, not by repression and overt control, but through a productive power which engenders subjectivities and aspirations’.

The idea of governmentality was used extensively in the study of development interventions in the 1990s (Escobar, 1995; Ferguson, 1994; Scott, 1998; Shore and Wright, 1997) to demonstrate how development interventions have become instrumentalised to maintain power relations, create social exclusion and enhance state capacity, all through the use of knowledge and technical discourses. As this dissertation concerns both governance and policy, one might expect the concept of governmentality to be central in the analytical framework employed. This is especially the case considering that questions of dominance and resistance are very pertinent in this study, which points out, for example, the expansion of bureaucratic state control, the economic exclusion of artisanal and small-scale mining

operators, modes of indirect rule and processes of territorialisation, all resulting from conflict-mineral policy implementation.

However, despite the clear relevance of the issues of dominance and resistance, such questions of power should not always be studied from a governmentality perspective, especially considering that this approach does not do justice—as Mosse (2004) rightfully points out—to the complexity of policy as a practice or to ‘the diversity of interests behind policy models and perspectives of actors themselves’ (Mosse, 2004: 644). In choosing to combine insights from interpretive policy analysis literature and the school of development sociology, this study approaches policy as a social process, which leaves much more room for gaining an unprejudiced understanding of the interactions through which conflict-mineral policy becomes negotiated, beyond questions of domination.

2.2 Governance

For this study, natural resource governance orders were selected as an arena to study the negotiation of conflict-mineral policy. There are two main reasons to look at how policy impacts governance. First, choosing Congolese natural resource governance orders as an arena to study policy negotiations facilitates going beyond the analysis of policy in terms of pre-defined, clear indicators of success, as is still often done in policy evaluation studies. It provides an interesting point of departure for a more comprehensive and longitudinal analysis of the effects of policy, making it possible to capture changes over time in positions, relations and structures.

Second, governance provides a logical ‘background’ for an analysis of the impact of conflict-mineral policy, as it is precisely that governance that these policies aim to reform. Increasing transparency within mineral supply chains, organisational reform of the artisanal mining sector and, especially, the wish to bring Congo’s mining sector back under government control all play a pivotal role in conflict-mineral policy design and its objective to break the link between conflict and the mineral trade.

Although choosing natural resource governance as an arena helps to clearly demarcate the boundaries of the present analysis of policy negotiation, it also presents an additional analytical problem: What is governance? The next section defines the concept of governance, outlining its emergence in the 1990s as an alternative to the concept of government; the application of the concept to describe how African societies cope with situations of limited statehood; the characteristics, positions and interdependencies of both state and non-state actors within the process that makes up governance; and the outcomes of such governance processes.

2.2.1 Public administrative science and the birth of ‘governance’

Simultaneously to the rise of critiques of the linear and instrumental ideas on policy from the 1980s to the early 2000s, academic debate also began to challenge the dominant state-centric perception that governance was a privilege of the state. Scholars started to point out the changing context within which society became regulated and the altering position of the state

therein, with societal issues transgressing boundaries and solutions being found beyond the borders of a classical-modern state (Börzel, 1998; Jessop, 1998; Kooiman, 1993; Rhodes, 1996; Rose and Miller, 1992; Stoker, 1998).

This scholarly work argued that, in the globalising world, decision making and policy making became dispersed, moving away from being a traditional, top-down responsibility of the government—either in a vertical direction, upwards towards international bodies and downwards towards provincial authorities and localities, or in a horizontal direction, sharing control with non-bureaucratic agencies such as NGOs and transnational corporations (Hajer, 2003: 176–180; Pierre and Peters, 2000: 85).

This significant departure from the Westphalian assumption that governing is accomplished by the exercise of the authority of nation-states has become bundled under the somewhat puzzling term of ‘governance’. The traditional use of the concept, prior to the 1990s, defined it as a synonym for ‘government’ (Stoker, 1998). However, in the 1990s, ‘governance’ as a concept was given a different meaning when scholars of international relations and European politics introduced the concept into social science, writing about ‘governance without government’ (e.g. Peters and Pierre, 1998; Rosenau and Czempel, 1992) and ‘new modes of governance’ (Kooiman 1993; Rhodes, 1996; Rosenau, 2000), drawing attention to ‘regimes of rule going beyond the sovereignty of states’ (Colebatch, 2009: 61).

The term ‘governance’ rapidly gained popularity, becoming a ‘buzzword’ (Jessop, 1998) for describing all conceivable modes of governing. This broad use of the concept—either to distinguish governance as a mode of governing from government (*Gegenbegriff*) or as an all-encompassing concept (*Oberbegriff*)—turned it into a much-discussed concept (Offe, 2008).

Despite the manifold ideas on governance that have emerged since the 1990s, some key themes can be identified across the various and often contrasting accounts of the term. Most importantly, scholars seem to have found consensus on the idea that ‘governance’ is not a prerogative of the state, but rather of a ‘set of institutions and actors that are drawn *from* but also *beyond* government’ (stress added). A second common theme of the various governance theories is recognition of the blurring of boundaries and responsibilities between public, private and civil actors and institutions. Third, processes of governance take on social and economic issues, ‘steering and guiding’ towards solutions using new tools and techniques, rather than by command. Finally, governance theories highlight the negotiation process through which state–society interaction and the power relations between these entities come about, as well as the subsequent tensions between autonomy and interdependency (Stoker, 1998: 18).

These perspectives on governance produced by public administration scholars in the 1990s are very insightful for understanding the organisation of society, pointing out, for example, that the state is only one of many actors steering society, the move from hierarchical command towards interaction and the existence of interdependencies between governing actors (Kooiman, 1993; Rhodes, 1996). Nevertheless, this perspective on governance has multiple shortcomings, at least in the way it has been defined by the school of administrative science.

Definitions of governance found in the literature seem to be predominantly suited to the study of global levels of governance (Rosenau, 1995) or multilevel governance systems such as that of the European Union (Börzel and Risse, 2010). Based on these definitions, governance also seems to be mainly concerned with ‘rule-making’ and regulation, directing less analytical focus towards the negotiation of (temporary) agreements that are not recognised in any legal system (Hyden, 1999). Furthermore, the prominent position of ‘institutions’ and ‘organisational networks’ (Kooiman, 2003; Peters, 1996; Rhodes, 2000) in these studies restricts governance to recognised ‘tables’ and clearly defined, unitary groups of state or non-state actors, while overlooking the heterogeneous character of many of these actors and the more ‘everyday’ forms of governance among individual actors. Finally, the literature does not seem to escape the instrumental approach to governance. Describing new patterns of interaction as ‘private–public partnerships’ or ‘co-operative management’ (Rhodes, 2000) and framing interaction in terms of ‘shared goals’ (Rosenau, 1992) seems to assume a coordinated and intentional plan behind governance. This instrumental approach to governance, later further developed in the literature on ‘institutional multiplicity’ (Dijohn, 2008; Putzel, 2005), neglects or denies the possibility of unintentional outcomes and defines governance ‘as a systemic quality associated with certain political systems’ (Raeymaekers et al., 2008: 14) or a ‘rule system’ (Putzel, 2007).

2.2.2 ‘Governance from below’

The present research also builds upon a body of literature studying governance practices in conditions of conflict and protracted crisis in sub-Saharan Africa. Termed ‘public authority from below’²⁸ literature’ by Hoffman and Kirk (2013) in their systematic literature review on the production of public authority in conflict-affected and transitioning regions, this ever-growing body of literature builds upon the legal pluralism notion that, within a single political order, multiple normative systems and norm-producing authorities such as international, economic, customary and religious authorities may co-exist with the state (see e.g. Griffith, 1986; Moore, 1978; von Benda-Beckmann and von Benda-Beckmann, 2006).

These authors aim to understand how African societies manage to cope with limited statehood, and they study a wide range of ‘governance domains’ including the regulation of economic activities and taxation (Meagher, 2012; Raeymaekers et al., 2008; Roitman, 2004; Titeca and de Herdt, 2010); the provision of basic public goods (Hönke, 2009; Titeca and de Herdt, 2011), security and justice by non-state actors and institutions (Arjona et al., 2015; Garrett et al., 2009; Kyed, 2009; Menkhaus, 2006; Raeymaekers, 2007; Titeca and Herdt, 2011; Vlassenroot and Raeymaekers, 2009); and the negotiation of access to resources and the recognition of property rights (Boone, 2012; Lund, 2006b; Lund and Boone, 2013; Sikor and Lund, 2009).

However, despite the diverse thematic and geographical foci of these studies, they are connected by their interest in understanding public authority and governance in a broader sense from a pluralistic and processual perspective. Empirically mapping daily governance

²⁸ The idea to study public authority ‘from below’, in contrast to approaching ‘the state from above’, originates from Lund’s (2006a: 674) introduction to a special volume on public authority in *Development and Change*.

practices through long-term fieldwork, these studies ‘show that public authority is not a prerogative of the state’ and that it is ‘an emergent property, always in production and never definitely formed’ (Hoffmann and Kirk, 2013: 10, 32).

In the 1990s, the public administration governance theories describing practices in Europe or the United States predominantly understood governance as a result of the changing nature of society (globalisation, the growing influence of the media, etc.) (Hajer, 2003; Jordan et al., 2005). In a similar trend, from the late 1990s to the beginning of the 2000s, scholarly work on the functioning of the state in developing countries (e.g. Herbst, 1990; Strange, 1996; von Trotha, 2001) described how large-scale economic changes, such as structural adjustment programmes and economic globalisation, resulted in ‘a decline of the state’, as such developments touch upon territoriality and sovereignty—both concepts at the heart of the state (Sharma and Gupta, 2006). A third school of thought gaining influence and popularity in policy makers’ discourse and academic debates since the early 1990s goes beyond the idea of declining states and describes states lacking monopoly on the legitimate use of violence, effective bureaucratic apparatus and systems for public goods provision as ‘collapsed’ or ‘failed’ states (see e.g. Rotberg, 2002; Zartman, 1995). This literature argues that the absence of strong overarching state frameworks regulating socio-political life results in failing political orders, or, in Hobbesian terms, ‘a war of all against all’ (Zartman, 1995).

Scholars belonging to this ‘public authority from below’ strand, writing in the body of literature that the present research aims to build upon, seem to have found consensus on the idea that ‘governance’ indeed results significantly from the general absence of overarching state frameworks in many post-colonial states. However, past work in this line of research argues strongly that the absence of effective state control does not necessarily equal anarchy, a lawless vacuum or a breakdown of political order (Cramer, 2006; Hagmann and Péclard, 2010: 541; Raeymaekers, 2008; Roitman, 2005; Titeca and de Herdt, 2011: 231), and that African societies have proved to be very creative in coping with the absence of state authority and in governing themselves (Raeymaekers et al., 2008: 8). Additionally, these scholars argue that a reduction of state control and administrative capacity in peripheral areas does not mean post-colonial governments have become unable to steer society. They contest assertions about ‘declining’ or ‘failing’ states, arguing that African states ‘continue to play a preponderant role’ in ordering society (Raeymaekers et al., 2008: 10) and manage to consolidate their authority in peripheral areas indirectly, or ‘by discharge’, for example by delegating administrative functions to private actors (Diouf 1999; Hibou, 1999, 2004; Hönke, 2012).

In contrast to research describing state collapse or decline, this body of literature aims to study the workings and negotiation of order and authority in the newly opened spaces in the absence of overarching state frameworks reaching out into every remote corner of a territory—an endeavour the present study aims to join.

2.2.3 Negotiated public order: society and the state

Aiming to capture the different ways that African societies have coped with limited statehood, this body of literature has come up with alternative terms to grasp the ways in which state and non-state actors in these circumstances *relate to each other* and ‘negotiate’ public order (Hoffmann and Kirk, 2013: 11). A number of these regularly used alternative

terms include ‘the mediated state’ (Menkhaus, 2006), ‘governance by discharge’ (Diouf, 1999; Hibou, 1999, 2004; Hönke, 2012), ‘twilight institutions’ (Lund, 2006a, 2006b), ‘para-sovereignty’ (Klute and von Trotha, 2004), ‘non-state governance’ or ‘governance without government’ (Raeymaekers, 2007; Raeymaekers et al., 2008), ‘negotiated statehood’ (Hagmann and Péclard, 2010) and ‘hybrid political order’²⁹ (Boege et al., 2009; Mallet, 2010).

Menkhaus is one of the scholars providing an alternative conceptualisation of how African societies cope with limited statehood. Writing about the Horn of Africa, Menkhaus (2008) uses the concept of the ‘*mediated state*’ to explain how central Somalian limited-capacity state authorities partner with non-state local security providers to outsource security functions in the remote hinterlands. Not only do such ‘mediations of statehood’ provide communities with basic service provision; they also allow for central states to maintain control over peripheral regions despite their limited capacity.

The idea that co-opting non-state actors to provide specific services might increase central states’ chance of survival and strengthen their control in remote hinterlands is echoed by scholars such as Hibou (1999, 2004), Diouf (1999), Côte and Korf (2018) and Hönke (2012), who use the concept of ‘*governance by discharge*’.³⁰ These authors argue that, through indirect modes of governance such as the delegation of administrative functions to private actors, the state manages to indirectly consolidate its (extractive) authority in peripheral areas over which it does not have exclusive and total control, while avoiding the costs of an expensive major administrative apparatus (Hibou, 1999: 20). Hönke’s (2010) fieldwork on transnational mining companies in Katanga, DRC, demonstrates that the delegation of sovereign tasks to private actors does not indicate a loss of sovereignty by the state, but rather changing political topographies,³¹ or as Hibou puts it, ‘the re-deployment of the state in a different fashion’ (Hibou, 2004: 20). These dynamics of discharge arise out of necessity, Hibou (1999) argues, as a negotiated response to a mutually shared problem.

Contrary to the idea of a ‘mediated state’, Lund does *not* perceive these negotiations as a deliberate process with an intentional outcome. Instead, he describes how public authority becomes the ‘amalgamated result of the exercise of power by a variety of local institutions and the imposition(s) of external institutions, conjugated with the image of the state’ (Lund, 2006a: 686). Such ‘*twilight institutions*’, as Lund terms them, move in and out of the capacity to exercise public authority, operating in the twilight between state and non-state (Lund, 2006a: 673–678). These institutions take on an ambiguous role, as, ironically, ‘the idea of the state is also effectively propelled by institutions which challenge the state but depend on the idea of it to do so’ (Lund, 2006b: 689). Lund distinguishes between two countervailing types of processes (with rather different outcomes): the ‘process of regularisation’ and ‘processes of situational adjustment’ (Lund, 2006b: 699). Building on Moore (1978), Lund describes how situations of limited statehood can result in

²⁹ Although this last categorisation does not fit into the ‘public authority from below’ literature, it deserves mentioning.

³⁰ Introducing the idea of ‘governance by discharge’, these scholars build upon the concept developed by Max Weber to describe an ancient ruling technique used by weak European feudal states to delegate extractive authority to local power holders in peripheral areas over which it did not have direct control.

³¹ A spatial reconfiguration of power and governance

regularisation, which occurs when people try to fix social reality, aiming to increase its predictability and the coherence amongst institutions through the production of rules, customs and symbols. However, these same situations can also result in *processes of situational adjustment*, where people manipulate and reinterpret rules to exploit ambiguities in regulation. These last processes result in unpredictability and institutional incongruence.

In later work by Lund and colleagues (Lund and Boone, 2013; Sikor and Lund, 2009), the scholars, writing on property rights and access to land, continue their analysis of these negotiations between the state and *twilight* institutions. They assert that ‘land issues are often not about land only’ (Lund and Boone, 2013: 1) and that struggles over resources are often just as much about the establishment and consolidation of authority. These struggles involve the legitimization of claims on natural resources as official property, while they are also ‘processes of every-day state formation’ (Sikor and Lund, 2009). These processes thus do not only ‘reflect pre-existing authority’, Boone and Lund argue (2013: 2); they actively reproduce and extend and/or undermine and challenge it.

Lund, Menkhaus and Hibou thus seem to perceive the involvement of non-state actors in governance as functional—a mutually beneficial process that might strengthen the state and one in which the state plays an active role, ‘outsourcing’ or ‘discharging’ governance functions. Scholars like Klute and von Trotha (2004), in contrast, approach such dynamics mainly in terms of competition. They use the term ‘*para-sovereignty*’ to describe situations in which ‘social and political centres of power and relevant nongovernmental groups have taken over part [...] of the recognized [...] and therefore mostly legally sanctioned duties in the core area of state administration’ (Klute and von Trotha, 2004, quoted in Raeymaekers, 2007: 134, 187) and highlight how the exercise of public authority by non-state actors is characterised by ‘direct competition’ with state administration, ‘expropriation’ of state sovereignty and ‘informal decentralisation’.

In addition to the scholarly work summarised above, which outlines forms of combined state and non-state governance, Raeymaekers, Menkhaus and Vlassenroot describe types of governance that emerge *in the near absence of the central state*, conceptualised as ‘*non-state governance*’ (Raeymaekers, 2007) or ‘*governance without government*’ (Raeymaekers et al., 2008). They describe how arrangements between various non-state actors in the remote hinterlands (e.g. between cross-border traders and rebels) (Raeymaekers, 2007) have the ability to produce new regulating systems and patterns of local authority, functioning independently from the state, and even to influence politics at regional and central levels.

Before concluding this section, a last body of literature deserves attention although the present study will not build on it specifically: the literature on hybrid political orders (HPO) (Boege et al., 2009; Clements et al., 2007; Kraushaar and Lambach, 2009; Mallet, 2010; Meagher, 2012; Meagher et al., 2014; Renders and Terlinden, 2010). This body of work argues that ‘formal’ and ‘informal’ or ‘modern’ and ‘traditional’ spheres do not simply co-exist in parallel or in isolation from each other, but rather permeate one another, giving rise to connections and associations between the different spheres (Boege et al., 2009). Cleaver (2001: 26) highlights how, during processes of governance negotiations, ‘people consciously and unconsciously draw on existing social and cultural arrangements to shape institutions in response to changing situations’, blending the ‘formal’ and ‘informal’, as well

as the ‘modern’ and ‘traditional’, in a process she refers to as ‘institutional bricolage’. HPO scholars thus largely argue that both spheres interact, not exclusively in terms of opposition, competition and resistance, but also in a cooperative manner, leading to continual processes of adaptation, marrying and transformation (Mallet, 2010). This body of literature assigns more confidence to the governance capacity of non-state structures, which are argued to have the potential to provide stability.

Meagher (2012: 1074) cautions, however, not to over-valorise forms of non-state order in contexts of hybridity and state-building in Africa. She argues that ‘the condemnation of non-state order as institutionally destructive has been replaced by its celebration as a vehicle of embedded forms of order and authority’. As Meagher et al. (2014: 2) argue, there has been a paradigm shift from the ‘good governance’ agenda to a focus on ‘arrangements that work’. These scholars draw attention to the legitimacy of such hybrid arrangements and argue there is a necessity to clarify whether negotiations between state and non-state actors move towards ‘constructive’ or ‘corrosive’ forms of order (Meagher, 2012; Meagher et al., 2014: 7).

Although the work on negotiated public order referenced here has much in common, Meagher (2012) rightfully points out that some of the authors, such as Lund (2006a, 2006b) and Klute and von Trotha (2004), tend to represent the ‘pluralization of regulatory authority as a degenerative process’ (Meagher 2012: 1076), equating these processes with the unravelling of the state. Other scholars linked to the HPO body of literature, as well as Raeymaekers (2007) and Menkhaus (2008), seem to approach this pluralisation of authority from a transformative perspective, pointing out the new forms that can emerge. Scholars such as Hibou (2004), Côte and Korf (2018) and Hönke (2012) could be added as a third category, representing the pluralisation of authority as the ‘deployment of the state in a different fashion’ (Hibou, 2004: 20).

Finally, Hagmann and Péclard (2010) provide a heuristic framework for the analysis of public authority, combining insights from many of the earlier studies summarised above. These scholars propose a deconstructive approach to the analysis of state forging and remaking processes. They put forward a framework that explores *who* negotiates public authority and *how* they do so (actors including their resources and repertoires), *where* such negotiation takes place (arenas and tables) and *what* the negotiation is about (object of negotiation). Hagmann and Péclard emphasise that such processes are characterised by their dynamic and undetermined nature, and that the power differences between actors’ assets and abilities to influence the outcome render these negotiation processes profoundly unequal.

2.2.4 The state

These various conceptualisations of the negotiation of public order also highlight the often blurry and porous boundaries between state/society, public/private, formal/informal and modern/traditional. These authors argue that it is difficult to differentiate between them and that they are always in flux (Hibou, 1999, 2004; Lund, 2006a).

The DRC is the example *par excellence* that, despite limited statehood and weak capacity, the state did not collapse or decline, but rather proved to endure. It is a post-colonial state that, despite years of conflict, political instability, economic globalisation and large-

scale privatisation, has not retreated. Rather, the Congolese state has proven to be rather resilient to these continuous challenges (Englebert, 2003; Vlassenroot and Raeymaekers, 2008: 39) and continues to be present in many aspects of society, ‘both in the image of nation-statehood with its visible institutions, symbols and practices, and in the structure of relationships underlying contemporary modes of governance – as is evidenced for example in mechanisms of economic redistribution, political clientelism and continuing bureaucratic practice as mechanisms of social reciprocity’ (Raeymaekers et al., 2008: 17). The Congolese state, in the words of Congolese citizens, is ‘*moribond, mais pas mort*’ (dying but not yet dead) (Trefon, 2004).

It is important to recognise, however, that despite the continuous existence of the Congolese state, governance in the DRC is characterised by a complex institutional landscape in which law and order are fluid concepts (Vlassenroot and Raeymaekers, 2008) and public administration is largely malfunctioning (Englebert, 2003; Rubbers, 2007; Trefon, 2009). As a result of this limited statehood, the Congolese state appears not to be the sole actor governing society and providing basic services traditionally associated with the state, such as education, social welfare and public security, which are in many cases provided by non-state actors such as rebel groups (Raeymaekers, 2010), the Catholic church (Nest, 2002; Titeca and de Herdt, 2010) or transnational mining companies (Hönke, 2009; Hönke and Thauer, 2014; Rubbers, 2013).

So, then, what does this dissertation mean when it refers to the (Congolese) state? In line with other scholars writing on governance in Africa (Lund, 2006a, 2006b; Roitman, 2005), at least to start with, the present work leans towards an understanding based on Weber’s rational–legal ideal type of the state including a set of key functions. Weber defines the state as ‘a human community that (successfully) claims the monopoly of the legitimate use of physical force within a given territory’, where ‘the dominated must obey the authority claimed by the powers that be’ (Weber, 1918). This definition is useful in that it provides an analytical basis for studying the state’s authority and its instruments used to order society (Nest, 2002: 39).

Weber’s definition also has significant shortcomings. First, in many post-colonial African states, and especially in the DRC, as extensive scholarly work has demonstrated, basic functions such as welfare provision, guaranteeing security and protecting citizens’ rights through the rule of law prove not to be a prerogative of the state. In his work on the Congolese state, Nest (2002: 39) even argues that, historically, the Congolese state ‘has made a low priority of its legitimacy and the provision of public goods’.

Second, portraying the state as ‘one community’ erroneously conceptualises it as a unitary institution. Sharma and Gupta’s (2006: 6) description of the state as a ‘multi-layered pluri-centred and fluid ensemble of institutions, practices and people’ is more useful in recognising the heterogeneous character of the state. These scholars point out that state institutions, administrative offices, ministries and other such entities should be understood as independent actors, each with its own specific interests, positions of authority and repertoires, opening the door to acknowledging the existence of pluralism *internal* to the state (von Benda-Beckmann, 2002).

Additionally, a useful point of departure for going beyond the classical distinction between state and society is Migdal’s (2001) alternative ‘state-in-society’ approach, in which

he urges social scientists to no longer perceive the state erroneously as external to society, but instead to approach it as ‘part of society, with many characteristics not very different of those of other social organizations’ (Migdal, 2001: 63).

To facilitate the analysis in the present study and make this rather broad theorisation of the state more workable, the analysis of ‘the state’ is operationalised by focusing on particular state services linked to the national Ministry of Mines—namely, SAESSCAM,³² *Division des Mines* (the Mining Division)³³ and *Police des Mines et Hydrocarbure* (the Mining Police).³⁴ These are state authorities that are present at various governance levels (local, provincial and national) and that are involved in natural resource governance and the implementation of conflict-mineral policy on a daily basis.

Finally, this dissertation takes a constructivist approach to understanding the state, arguing that the state is defined both through administrative practices and by how ‘ordinary citizens imagine and represent the state in their everyday lives’ (Gupta, 1995: 390–393, quoted in Hagmann and Péclard, 2010: 4). This research therefore combines two dimensions of ‘the state’, namely ‘its embodiment of public authority’ and ‘the notion of the state’, as distinguished by Moore (1978). Following Lund (2006a: 674), the present study investigates ‘the variety of concrete encounters’ among the state, non-state authorities and community members, aiming to highlight practices and discourses of state agents, as well as ‘the more or less mundane practices of end-users’, their imaginations and expectations of the state (Lund, 2006b: 696).

2.3 Overarching analytical framework: policy, governance and the state

Accepting the generally ‘messy’ ways in which African societies cope with limited statehood, and Congo’s complex institutional landscape more specifically, brings forward the questions of what happens when transnational interventions concerning the trade in 3T minerals enter into these complex institutional realities, and moreover how these interventions affect those realities.

Having outlined the body of literature on governance and public authority in conflictual settings in Africa, this research takes inspiration from the work of both Raeymaekers (2007) and Colebatch (2009) in its approach to governance.

Following Kassimir (2001), Raeymaekers refers to governance as ‘*the way a society organizes to use power to manage public resources, involving the making and implementation of collective decisions, enforcement of rules and resolution of conflicts*’

³² The *Service d'Assistance et d'Encadrement de Small-Scale and Artisanal Mining*, established in 2003, provides assistance to artisanal miners through formation and technical support at the mine site level. At the provincial level, it promotes the development of artisanal mining into small-scale, semi-mechanised mining.

³³ The Mining Division is responsible for the inspection of mining activities for both artisanal and industrial mining at the mine pit level. Its geological department conducts studies, and other departments administer mineral flows, compile production statistics, and authorise mineral evacuation and export.

³⁴ The Mining Police’s main tasks at the mine site level are keeping order in general, mediating disputes, and addressing smuggling and theft. At the provincial level, the Mining Police verify the correct handling of minerals and related paperwork, co-authorising mineral evacuation and export, together with the Mining Division.

(Kassimir, 2001, quoted in Raeymaekers et al., 2008). This definition is useful, first because it specifies the *object(s)* of governance, whereas most other definitions remain more abstract. Second, Raeymaekers' definition goes beyond the stricter concept of regulation. As Raeymaekers et al. themselves argue, the concept of governance is useful because it refers to regulation but also to the 'active processes of administrating and managing these regulation mechanisms through the allocation of certain services, goods, and rights' (Raeymaekers et al., 2008: 14).

Nevertheless, Kassimir's definition tends to under-emphasise two characteristics that should be included in a definition of governance. First, Kassimir mentions 'society' without highlighting the interaction between government and non-government actors that lies at the foundation of the concept of 'governance'. This is in line with Raeymaekers' use of governance as a system *without* the state (non-state governance, or governance without government). In contrast, however, this dissertation views governance as an all-encompassing concept (*Oberbegriff*) and uses the term to include all conceivable modes of governing (Offe, 2008), including forms of governance both *by* and *with* government and the state. Second, Kassimir's definition tends to focus on the process of governance without referring to its outcome—a certain type of order (a collaboratively accomplished order).

That is where Colebatch's definition of governance becomes useful. Colebatch (2009: 58) defines governance as '*the collaborative accomplishment of order through a process of negotiation among a range of participants, government and non-government*' (Colebatch 2009: 58). This definition pays more attention to state–non-state interaction—the part of the negotiation that is not always as harmonious as Kassimir's term of 'collective decisions' seems to imply. Most importantly, Colebatch's definition highlights the existence and relevance of an *outcome* of such negotiation processes, namely the accomplishment of a certain (governance) *order*. This last point is important because this dissertation approaches governance not only as a process aiming to solve particular societal problems—or, as Kassimir puts it, to 'manage public resources'—but certainly also as a process that has the potential to alter 'the rules of the game' (i.e. a reordering of an institutional setting including the positions and relations of the actors involved, the agreements they make, and the forms and attributions of authorities they negotiate).

As already briefly mentioned in Chapter 1, this research defines *governance*, combining insights from both Colebatch and Kassimir, as *the negotiation process through which state and non-state actors organise to manage public resources and accomplish (a certain) governance order, involving the making and implementation of decisions, enforcement of rules and resolution of conflicts*. Following Lund (2006a, 2006b) and Hibou (1999, 2004), the present study approaches governance as a spontaneous, not necessarily deliberate process without a pre-determined outcome. It is seen as a process that orders society but that, through continuous negotiations, contestations and arrangements, remains in flux, and thus creates a certain *order* at a certain time.

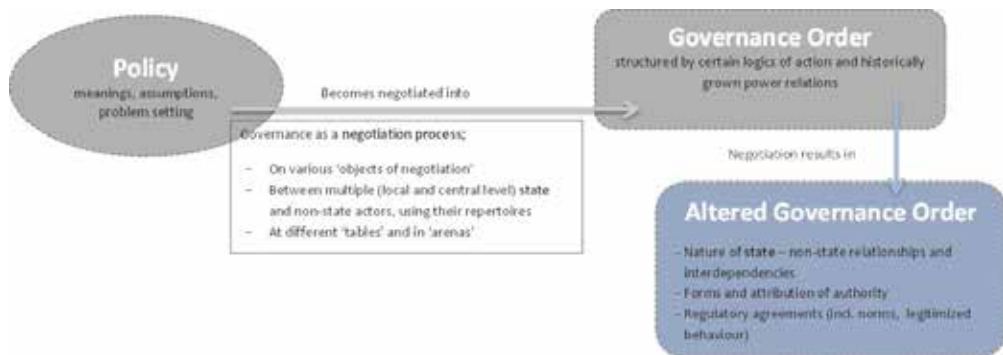
Building upon Meagher and colleagues' criticism, this dissertation intends to draw attention not only to the *process* of governance negotiation, but also to the *outcome* of such a process—in other words, to governance as an *order*. Based on insights from Hibou (1999, 2004), Lund (2006a, 2006b), Raeymaekers (2007) and Raeymaekers et al. (2008), this research defines *governance order* as a specific but never definitely formed configuration of

governance actors' practices, relations and interdependencies that collectively organise to manage public resources. This attention to the outcome of governance processes allows for the study of potentially emerging regulatory frameworks (Raeymaekers, 2007; Raeymaekers et al., 2008); the deliberate creation of uncertain, messy and unstable agreements (Hibou, 2004: 16); and the consolidation, extension or re-production of authority (Lund and Boone, 2013; Sikor and Lund, 2009), as a result governance negotiations.

The advantage of this definition of 'governance order' over other concepts, such as 'governable orders' (Korf et al., 2010) or 'governable space' (Watts, 2004), is twofold. First, Korf's and Watts' concepts seem to focus the analysis on an 'order level', outlining how multiple 'governable orders', such as 'a state's order' or 'the order imposed by security forces', co-exist and interact in a particular space. The concept of 'governance order' used in the present research allows for governance analysis at the actor level, defining it as an outcome of negotiation between governance actors. These actors, such as the state, security forces and the private sector, are perceived to operate within, be part of and co-produce this same governance order at a certain time and in a specific space. Second, the concepts of 'governable space' and 'governable orders' seem to focus on questions of domination and 'tactics of the weak'. The concept of 'governance order' used in this dissertation allows for the analysis of negotiation processes between various governance actors, going beyond the restrictive governed–governing dichotomy.

Governance occurs in every local socio-political reality. In the case of the Congolese artisanal mining sector, the relevant processes of negotiation might concern, for example, the provision of access to mine sites or levels and structures of tax levying. In other words, these processes of negotiation occur without external policy intervention entering into Congo's local realities. When conflict-mineral interventions start to be implemented, this dissertation approaches them as becoming an integral part of these governance processes. These interventions become absorbed into the governance processes, and, as is the case for every other societal aspect, they have the ability to alter the governance order of which they are a part.³⁵ Figure 2.1 presents a schematic image of this research's analytical framework, combining these different concepts and outlining how they relate to each other.

³⁵ As parts of these conflict-mineral reforms were designed and introduced by Congolese state authorities (not only by external international organisations like the OECD), one could argue that the policy design should be portrayed as being part of the governance order in Figure 2.1. Although this would be a fair comment, policy and governance order are portrayed as separate entities here for reasons of schematic clarity, but also because this research aims to provide insight into the effects of this negotiation process on both entities separately.

Figure 2.1. Schematic image combining policy intervention and governance

A policy intervention, including its various meanings, assumptions and problem setting (Colebatch, 2009; Yanow, 2012), enters into a certain governance order, with its pre-existing logics of action and historically grown power relations (Rubbers, 2013: 9). Deploying such policy provokes a process through which the policy becomes negotiated into these pre-existing socioeconomic and political realities (Hilhorst, 2003; Long, 2001; Mosse, 2004). This negotiation process takes place at various levels at different 'tables' and 'arenas', among a multitude of state and non-state actors using their repertoires, and concerns different 'objects of negotiation' (Hagmann and Péclard, 2010). This negotiation process in large part determines the outcome of a policy intervention (Long, 2001), which might differ significantly from the initial policy design. This process is also an 'open moment', 'when the social rules and structures are suddenly challenged and the prerogatives and legitimacy of politico-legal institutions cease to be taken for granted' (Lund, 1998: 2) and the fragile equilibrium of a governance order is renegotiated, including a reshuffling of relations, the appearance of interdependencies, the emergence of (new) regulatory arrangements, a change in normative beliefs and the (re-)attribution of authority.

Photo: Helene Helbig de Balzac, June 2014, an artisanal miner at the entrance
of his mine tunnel, Nyabibwe mine, South Kivu, DRC



Methodological considerations

3.1 Original research set-up and gaining access

This PhD research project was part of a larger research programme: ‘Down to earth: Governance dynamics and social change in artisanal and small-scale mining in DRC’.³⁶ The programme was coordinated by Dorothea Hilhorst and included two other PhD research projects (by Claude Iguma and Rose Bashwira) and a post-doc research project (by Jeroen Cuvelier). The programme aimed to provide an in-depth understanding of how international mining reform initiatives for transparency affect governance, local institutions, livelihoods and the roles of women in artisanal mining in the DRC.

This dissertation’s research objective is to provide insight into the impact of conflict-mineral interventions on Congolese natural resource governance, and the position of Congolese state authorities therein. It studies the interactions, relations and interdependencies among state authorities and other stakeholders such as mining communities, as well as private sector actors, in their implementation and adoption of conflict-mineral policy, highlighting those actors’ repertoires and interests.

It thus pays attention to the subtle political expressions of ordinary people and studies their perceptions, strategies and everyday practices vis-à-vis these policy interventions—what Kerkvliet (2009: 232) calls ‘everyday politics’. Kerkvliet (2009: 232) defines ‘everyday politics’ as acts that involve ‘people embracing, complying with, adjusting, and contesting norms and rules regarding authority over, production of, or allocation of resources and doing so in quiet, mundane, and subtle expressions and acts that are rarely organized or direct’.

3.1.1 Definition of research sites and gaining access

This study began with the idea of conducting an anthropological-style ethnography of provincial- and national-level bureaucrats in line with the work of Blundo and Olivier de Sardan (2006) and Bierschenk and Olivier de Sardan (2014). I was principally interested in the negotiation of policy into Congo’s governance and the position of the state therein, and studying these dynamics from the perspective of one specific group, namely public servants, seemed a logical approach. Inspired by the work of Pachirat (2009) and Lipsky (1980), I intended to conduct participant observational fieldwork, following these public servants during

³⁶ Implemented by the special chairgroup of Humanitarian Aid and Reconstruction at Wageningen University from 2012 to 2016.

daily activities at their offices and at mineral depots mainly located in Lubumbashi (Katanga's capital) and in Kinshasa.

I submitted an application for a 'stage' (internship) lasting several months at the provincial Mining Division in Lubumbashi, as many Congolese students of political science tend to do in Katanga. I also applied for an assistant position at the Kinshasa office of *Projet d'Appui au Secteur* (PROMINES), a capacity-building program aiming to formalise the ASM sector that is jointly run by the World Bank, the DRC Ministry of Mines and, at the time, the United Kingdom Department for International Development. I assumed that such temporary positions would provide me with good insight into the everyday practices of officials working at those provincial and national levels.

However, I began to doubt the practicality of this initial approach when neither of those applications was granted (or, more accurately, after multiple inquiries failed to yield an official decision). These doubts were strengthened during the first months of fieldwork in Lubumbashi, as gaining access to the highly politicised provincial offices of the state mining authorities proved to be much more challenging than I had (naively) anticipated.

My identity as a white, European woman did facilitate access to the heads of the provincial and national state departments and mining authorities such as *Service d'Assistance et d'Encadrement de Small-Scale and Artisanal Mining* (SAESSCAM) and the Mining Division. Additionally, during the first contacts with these individuals, I managed to get an understanding of the general functioning of the artisanal mining sector, its main stakeholders, the official state discourses and the difficulties that had faced the implementation of conflict-mineral interventions.

However, this same white female European identity also made me (and the research participants) stand out very clearly in a predominantly Congolese male context, and this complicated my access significantly. Descending to the lower echelons of those state services and developing a relationship and an understanding of their perspectives proved to be more complex, as many lower-level civil servants were hesitant to engage in even informal interviews or document-sharing without the prior written approval of their bosses.

I experienced similar difficulties at the mineral depots of large-scale traders (*comptoirs*) and the offices of mining cooperatives in Lubumbashi, where compliance officers and managers all seemed well aware of the sensitivity of this research and of their positions. These visits usually did not go much beyond official discourses, carefully thought-through answers and 'guided tours' by specially appointed managers. Being accompanied by these 'chaperones' made it difficult to build trusting relationships with public servants and lower-level staff members stationed at the depots.

Additionally, I had expected most of the administration and governance of the mining sector to take place at the provincial offices. However, the first months of fieldwork demonstrated that state field offices functioned rather autonomously from the provincial and national offices and that many of the governance practices I was interested in were conducted either by civil servants permanently based in the field or by Lubumbashi-based inspectors who spent 80% of their time travelling around the mine sites.

3.1.2 Reconsideration of the original research set-up

These fieldwork experiences highlighted the difficulty of defining a research field and sites prior to the actual fieldwork, showing that it is sometimes necessary, as Stepputat and Larsen (2015: 16) argue, to spend time ‘observing, analyzing and sharing interpretations before defining one’s research sites’. Additionally, the evasive behaviour of state officials at provincial and national offices is not all that surprising, considering that ethnography in general terms ‘poses a potential threat to the sensitive information of a field and the delicacy of its relations, not least in sites with vested interests of powerful persons’ (Stepputat and Larsen, 2015: 19).

An additional argument for looking beyond the provincial state offices as the primary research site stems from the work of various political ethnographers who claim that analysing politics does not necessarily imply that fieldwork has to be conducted at the conventional centres of power (Schatz, 2009b; Stepputat and Larsen, 2015: 11)—in the case of this research, in the national and provincial offices. The argument continues that researchers should adopt a pragmatic approach to gaining access, ‘striving for the nearest possible vantage point to study a given problem’ (Schatz, 2009b: 307).

Encouraged by these insights, I extended the research locations to 3T mine sites and trading centres in remote areas of Katanga. Interestingly, I found that gaining access appeared much easier during visits to these locations, compared with the politicised offices in Lubumbashi and Kinshasa.

Building rapport and ‘hanging around’ also proved less complicated in these remote areas, where informants deemed my presence as a researcher more appropriate and less threatening,³⁷ especially when I returned to the same mining areas several times and my presence became normalised. Observation of governance and trading practices in these remote sites was facilitated by the fact that these activities mainly occurred outside of offices and in public places, such as beside mine pits, in front of trading houses or in central squares in ASM settlements. This allowed me to observe the interface between civil servants and the population in action.

3.2 Multi-sited political ethnography

Based on an evolving understanding of the research setting, I realised that my research interests involved a ‘research site’ larger than one singular location, such as provincial offices or 3T mine sites.

This redefinition of the research set-up required a new methodological approach—namely, multi-sited political ethnography. Multi-sited ethnography is a specific type of ethnography that gained popularity in the 1990s. In contrast to more traditional forms of ethnography, this approach does not focus on a single site or on a single ‘exotic’ group of people. Instead, it is ‘designed around chains, paths, threads, conjunctions, or juxtapositions of locations in which the ethnographer establishes some form of literal, physical presence, with

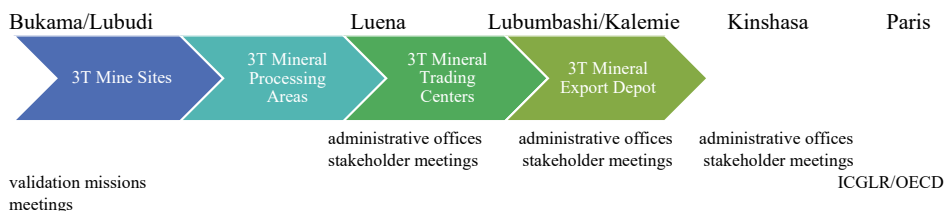
³⁷ This might be explained by the fact that 3T mine sites are more often visited by audit teams, researchers or iTSCi-related personnel, making mining communities somewhat more accustomed to Western visitors.

an explicit, posited logic of association or connection among sites that defines the argument of the ethnography' (Marcus, 1995: 105). By tracking or following people, material objects, metaphors or conflicts, for example (Marcus, 1995: 106–113), such an investigation allows for the study of social discourse and an understanding of cultural meaning throughout space.

The theme that connects the various fieldwork sites in the present research is the ensemble of conflict-mineral policy interventions. In other words, the present study follows policy, moving within all of the governance arenas potentially affected by its implementation. The relevant sites are mostly found along Katanga's 3T mineral supply chains, stretching the fieldwork terrain from where mineral exploitation takes place on several cassiterite and coltan mine sites and processing centres, to small-scale *negociants'* depots, to mineral-trading *comptoirs'* depots in mining hubs, to mineral export depots in Katanga's exporting cities, and to the administrative centres of Lubumbashi and Kalemie.

The 3T mineral supply chain thus runs as a red thread through this research. However, there are also additional arenas and negotiation tables, as described by Hagman and Péclard (2010), which are not necessarily directly linked to mineral extraction or processing, but where conflict-mineral policy and governance are actively negotiated. These include multi-stakeholder committee meetings; mine site validation missions; administrative offices in Kalemie, Lubumbashi and Kinshasa; and specific negotiation tables such as the (bi)annual jointly organised International Conference on the Great Lakes Region (ICGLR)/Organisation for Economic Co-operation and Development (OECD) meetings on supply chain due diligence in Paris.

Figure 3.1. DRC 3T supply chain and research sites along/outside of the supply chain



In these various settings, this study focused on the behaviour, narratives and practices of policy makers, state officials, *comptoirs'* representatives, mining communities, *negociants*, customary leaders and mining cooperative representatives, as well as the governance arrangements among them. Regular visits to the ICGLR/OECD meetings in Paris (2013, 2014 and 2015) served as a means to stay informed on new policy intervention developments and updated reports.

Following Shore and Wright's (2011: 11) definition of a 'field' as 'a social and political space articulated through relations of power and systems of governance', this study's 'ethnographic field' was defined as the ensemble of conflict-mineral policy interventions. Studying conflict-mineral legislation, guidance and practical initiatives holistically allows for an analysis of the collective impact of these conflict-mineral policy interventions. The choice to study these policies as an ensemble was also motivated by the simple pragmatic fact that, at this point in time, after almost eight years since the start of their implementation, it has become

impossible to disentangle the various interventions and treat them separately in terms of results or effects.

3.3 Geographic and temporal delimitation

The selection of Katanga for this research is justified by the fact that most previous scholarly work on conflict-mineral interventions in the DRC focused on the Kivu provinces and, to a far lesser extent, northern Katanga (Bashwira, 2017; Cuvelier et al., 2014; Geenen, 2012; Iguma, 2017; Radley and Vogel, 2015; Seay, 2012). The same seems to be true for many non-academic studies (Atanasjievic, 2016; Freudenthal, 2017; Johnson, 2013; de Koning, 2011; Spittaels and Caesens, 2010). This geographical focus did not give Katanga the attention it deserved. Although the region was less conflict-affected than the neighbouring provinces, Katanga certainly experienced large-scale impacts from the changing regulatory framework on the mining of tin, tantalum and tungsten (3T).

3T mineralisation in Katanga runs from the southern Lubudi territory, 300 km north of the city of Kolwezi, all the way north to Kalemie, including the territories of Bukama, Mitwaba, Malemba-Nkulu, Manono, Nyunzu and Kalemie along the Mitumba mountain range (see Map 1, page xv).

Whereas most scholarly work on the Katangese 3T mineral sector has concentrated primarily on the northern territories of Nyunzu and Kalemie (in the Tanganyika province) (Bashwira 2017; Iguma 2017), this research studies the mineral-rich territories of Bukama and to a much smaller extent, Lubudi,³⁸ which are situated at the centre of the former Katanga province.

Bukama is one of five districts of the Haut-Lomami province³⁹ in south-eastern DRC. The exploitation of Bukama's cassiterite and coltan deposits commenced during the colonial era, when the Belgian *Compagnie Géologique et Minière des Ingénieurs et Industriels Belges* (GÉOMINES) started the industrial exploitation of cassiterite in the *chefferie* of Kibanda⁴⁰ and 150 km further south in the tin mine of Busanga⁴¹ in the early 20th century⁴² (see Map 2, page x).

The industrial exploitation of cassiterite continued until the 1960s, when GÉOMINES abandoned Bukama⁴³ and became nationalised⁴⁴ in 1966 (Spittaels and Caesens, 2010; Woodmansee, 1968). *Société Générale des Carrières et des Mines* (GECAMINES) took over GÉOMINES at the end of the 1990s but failed to continue mineral extraction on a large scale.

³⁸ The territory of Lubudi was included in this study because its mine sites are also governed by the same administrative offices based in Luena, Bukama's mining hub.

³⁹ Katanga was divided into four new provinces during the decentralisation process of 2015 (also referred to as '*découpage*'): Haut-Lomami, Haut-Katanga, Tanganyika and Lualaba. During this same process, Bukama went from being a territory of Haut-Lomami to being a district.

⁴⁰ At the mine sites of Mitantala, Kyenze and Kakese

⁴¹ Interview, MMR employee, Busanga, 15 October 2014

⁴² Interview, former employee of *Entreprise Minière Artisanale du Katanga* (EMAK) and SAESSCAM agent, Luena, 1 April 2016

⁴³ Interview, former employee of *Entreprise Minière Artisanale du Katanga* (EMAK) and SAESSCAM agent, Luena, 1 April 2016

⁴⁴ Changing its name first to Zaire-Etain, and later, in 1998, to Congo-Etain

Faced with economic malaise and stimulated by Mobutu's liberalisation of mineral exploitation in 1983 (Geenen, 2014: 49), artisanal mining began at the end of the 1990s,⁴⁵ providing the predominantly agrarian population of Bukama with an additional means of income.

The research choice to study the Bukama region was motivated by the fact that it accommodated a dynamic mineral market because of the presence of a multitude of large-scale traders (*comptoirs*)—unlike other Katangese territories such as Nyunzu and Kalemie, where the mineral trade had become monopolised by a single Indian buying house, Mining Mineral Resources (MMR). Bukama's dynamic mineral market provides an interesting background for exploration of the impact of conflict-mineral interventions on local governance structures.

The geographical delimitation was further motivated by practical and security considerations. At the time of the fieldwork (from the beginning of 2013 to the end of 2016), Manono, Malemba-Nkulu and Mitwaba were experiencing rising levels of violence among various local armed groups, leading to the decision to focus the fieldwork for this dissertation on the relatively quiet and safer areas of Bukama and Lubudi.

In terms of temporal scope, this research concentrates on the period just before the launch of the broad range of conflict-mineral reform interventions around 2009 until the end of the fieldwork period, the beginning of 2016.

3.4 What is ethnographic about this research?

There are different accounts of what constitutes an ethnographic study. In his introduction to an edited volume on political ethnography, Schatz (2009a: 5) outlines multiple descriptions of ethnography, running from 'neck-deep' immersion studies consisting mostly of participatory observation to an understanding of ethnography as 'an ethnographic sensibility' that goes beyond mere participatory observation.

This specific political ethnographic study is in line with this second description. It is not a 'pure' ethnographic work in the sense of the researcher living fulltime in the community or actively participating in the daily lives of the studied individuals. Additionally, interviews were regularly used as a method of data collection, and the study was not conducted in the local Kiluba language; rather, French was used as the main language for communication. However, the research is grounded in ethnography. Immersion was the most important method throughout the study. During the 17-month fieldwork period, I did not only live in Lubumbashi, but also conducted fieldwork in the 'nearest possible locale', spending several months in mining hub of Luena and numerous weeks in the mine camps, staying either in the homes of befriended *negociants* (small-scale mineral buyers) and their families or at *comptoirs*' (buying houses) headquarters. I conducted systematic and prolonged observation, returning to the various fieldwork sites frequently over the course of three years. I also conducted 'participant listening' (Forsey, 2010) and approached the fieldwork—including interviews, observations and other interactions—with an ethnographic sensibility (Yanow, 2009: 34), looking into everyday practices with the aim of understanding their meaning.

⁴⁵ Interview, former-EMAK employee and SAESSCAM agent, Luena, 1 April 2016

Using Schatz's (2009a: 19) words, hence, 'my empirical work and writing has only partly incorporated ethnographic methods and sensibilities'. The different chapters of this dissertation demonstrate differing degrees of ethnographic methods, both in the fieldwork and in the writing. Chapter 4 on the policy interventions, for example, consists of an in-depth interpretive discourse analysis of policy documents, whereas Chapter 5, in contrast, demonstrates a higher-level analysis of policy implementation in different geographic areas and focuses on actors' interdependencies more than on the meaning of conflict-mineral policy for specific actors. The last two chapters of this dissertation are the most ethnographic, in terms of both the fieldwork techniques and the writing, 'taking the actors' worldviews seriously' (Long, 2001) and focusing on how actors' perceptions of each other and of the world around them colour their practices, decisions and behaviour towards each other.

3.5 Fieldwork organisation and techniques

In total, 17 months of fieldwork have been conducted for this research from February 2013 to March 2016. An exploratory 3-month field visit to Lubumbashi, Lubudi and Kinshasa in 2013 served to build contacts, determine the main research interest, identify fieldwork locations and create safe research logistics. In the following fieldwork period from February 2014 to May 2015, I settled in Lubumbashi, from where I made field visits to the mining territories of Lubudi and Bukama, the administrative mining centre of Kalemie and Kinshasa.

The time between the field visits was used to verify and complement the field findings and to conduct document study, interviews, and visits to public offices and mineral depots in Lubumbashi. Throughout 2013, 2014 and 2015, I systematically attended the ICGLR/OECD-organised conferences in Paris (and in 2014 in Kinshasa) on due diligence in mineral supply chains. Appendix I (page 170) provides a more detailed overview of the various fieldwork locations and visits.

Throughout the research, I used three main qualitative techniques to gather data on the relationship between conflict-mineral policy and natural resource governance: interviews, occasional focus group discussions, document review and observation.

3.5.1 Interviews

In a country such as the DRC, where the state has a limited territorial reach and where mineral buyers are guarded about detailed supply chain information, extensively studying governance and policy implementation through document review seemed nearly impossible.

Interviews were therefore an important way of accessing this undocumented information, such as procedures and organisational structures. Additionally, interviews provided good insight into research participants' beliefs and perspectives; their personal accounts of events, conflicts and institutions; their relations with other divisions or other stakeholders; and the difficulties they encounter during their work in more general terms. Interviews were also used to refine understandings of observed practices and behaviour.

More formal interviews with, for example, higher-level state officials or *comptoir* managers were usually planned and semi-structured. These interviews started with a couple of standard and rather 'neutral' questions to gain a better understanding of the informant's

position and willingness to share information, before turning to more specific questions linked to issues highlighted by the informant. Intending to build rapport and continued relationships, I returned to many of the research participants for second- or third-round interviews.

In the first fieldwork period in 2013, I audio-recorded some of the first interviews. However, it became clear quite soon that people did not feel at ease with the interviews being recorded; the interview setting quickly became more formal, and words were more carefully chosen after I switched on the recorder. For that reason, I decided to stop audio-recording the interviews after my first two months in the field. Instead, I took extensive notes that I worked out directly after each interview.

Most of the first interviews were conducted at the research participants' offices, and many were continued over a cup of coffee or a beer in a more neutral setting. Changing locations proved useful, as the informal setting of a restaurant not only helped to avoid the prying eyes and ears of colleagues, but also opened-up the interviews, allowing me to get a better sense of the interlocutor's personal position, career and life. These interviews were mostly conducted in French, and occasionally in English, for example with Indian or Lebanese research participants.

The research participants were selected starting with some of the main 'gatekeepers' in Lubumbashi, Kinshasa and Luena, including heads of due diligence-related programmes; heads of state mining authorities such as SAESSCAM, the Mining Division and *Centre d'Evaluation, d'Expertise et de Certification des Substances Minerales Precieuse* (CEEC), directors and compliance officers of *comptoirs*, mining cooperatives and civil society organisations; and department heads at the University of Lubumbashi.

These first contacts often led to new contacts. Although this snowball-sampling approach proved very useful, I also tried to prevent becoming trapped in the personal networks of my initial contacts, for example by randomly approaching potentially interesting informants and extending my network to people not directly linked to natural resource governance, such as company drivers, security personnel and journalists. To approach the organisations under study as heterogeneous actors and to go beyond executive perspectives, I selected research participants at multiple levels within each organisation, with a focus on lower-level staff based in the mining areas for reasons outlined above.

At the mine site level, as well as in Luena, the group of research participants was extended with additional stakeholders including local state and *comptoir* representatives, heads of miners' syndicates, *negociants*, customary chiefs, members of *creuseurs*' committees, villagers from mining communities and shop owners. Many of these interviews, especially at the mine site level, were conducted on an ad hoc/unplanned basis and usually began as casual conversations. During these informal interviews, I sometimes took notes in the form of key words or interesting quotes, either during the interview or shortly afterwards, and then worked these out at night into more elaborate interpretations. In total, 188 formal interviews and numerous informal interviews were conducted.

Some of the interviews were completely unplanned, such as when people approached me explaining that they were interested in sharing their accounts of events with me. These unanticipated interviews often provided very new perspectives and made me realise the importance of being easily accessible to potential informants who had not yet been identified. On other occasions, interviews turned spontaneously into focus group discussions when

research participants brought colleagues along for an interview or when an introductory talk with mine site authorities or a village chief attracted the attention of interested villagers who joined the discussion. During these occasions, I did not try to control the situation too much, but to flexibly adjust and focus on those participants providing interesting information.

3.5.2 Observation

A second important technique used throughout this research is observation, although it was not so much the participatory kind. This technique can better be described as ‘participant listening’ (Forsey, 2010) or, in the words of Fenno (1986, cited in Schwartz-Shea and Yanow, 1995: 54), ‘interactive observation’—a form of observation that goes beyond simply ‘looking through a one-way glass at someone on the other side’.

In the present study, more concretely, this form of observation included spending nights in artisanal mining camps just to be part of it, even if only for a short while, to get an idea of the day-to-day practices and a sense of the remoteness and the harsh living and working conditions. Interactive observation also included accompanying civil servants or *comptoir* representatives during their work and occasionally on their travels. This time spent in their company allowed me to observe administrative and taxation practices and the ‘tagging and bagging’ of mineral bags, enabling me to identify hierarchical levels, the division of tasks and responsibilities between the various state mining services and their inter-divisional relationships, and their behaviour towards colleagues, bosses and members of the mining community.

3.5.3. Document review

Finally, I consulted secondary literature collected during my stay in Lubumbashi, Kinshasa, Luena and Kalemie. These documents included, for example, legislative documents, statistics and annual reports from the local state, correspondence between state authorities and customary leaders, mineral export documentation, and minutes of local and provincial multi-stakeholder meetings. These materials proved useful in understanding the internal functioning of the organisations and their hierarchical structures and, perhaps especially, in tracking change over time and constructing a recent governance history of mineral exploitation, trade and governance in Lubudi and Bukama.

I also consulted reports from provincial civil society organisations and a range of unpublished master’s theses from the University of Lubumbashi. Although the quality of these works varied significantly, they were useful for gaining a broader understanding of Katanga’s mining sector and governance structures. Chapter 3, specifically, draws on an interpretative discourse analysis of a number of international conflict-mineral policy documents.

3.5.4 Research assistants

To differing extents throughout this research, I worked with research assistants. During the first months, I was accompanied by a research assistant during the formal interviews in Lubumbashi and Kinshasa to familiarise myself with formal etiquette, assist with arranging formal interview requests and help with the French language when needed.

After I became more familiar with the French language and formalities and I felt more at ease travelling around Katanga alone, I stopped working with this research assistant on a day-to-day basis, which allowed the budget to pay for two highly skilled research assistants specialised in the mining sector in Katanga. These two research assistants added considerably to the research, in terms of providing both insight into the mining sector and access to their independently developed networks of contacts in Luena and Kalemie/Lubumbashi. Both research assistants had university degrees and had spent over a decade researching Katanga's (and more specifically Bukama's) mining sector, working for various research institutes, consultancy firms and civil society organisations.

After I became more familiar with their work and strengths, I decided to have the research assistants conduct a few of the interviews in Bukama and Kalemie on particularly sensitive or politicised topics and to follow up on contradictions I had picked up on during earlier interviews. I believed that the research assistants, as Congolese male researchers with carefully built social networks, might have better access than I would. To control the quality of these interviews, I carefully prepared for the interviews with the research assistants, providing detailed interview guides, and I asked the assistants for detailed interview reports, including their observations.

3.6 Fieldwork reflections

Throughout this research I acted as an independent researcher who was not embedded in or collaborating with an NGO or civil society organisation in the DRC, although I did liaise with the *Observatoire du Changement Urbain*, a research institute founded by Pierre Petit of the Free University of Brussels and linked to the University of Lubumbashi. The choice to work independently in this way proved to be a considerable advantage. Quite quickly, I noticed that the research participants felt more at ease after I introduced my research as scientific, in contrast to journalistic work or research done by advocacy NGO's such as Global Witness.

However, choosing to work as an independent researcher also had some negative consequences. It meant that I could not build on any organisational support structure in terms of access provision, social networks, housing or security. Hence, it took me some time to adjust to the setting and to the sometimes challenging fieldwork conditions. However, as this was not the first time I had conducted research for an extended period of time outside of my own country,⁴⁶ I managed to work around these non-ideal living and working conditions.⁴⁷ Still, I also noticed that longer-term stays in the field affected my physical and mental fitness and demanded quite some flexibility at times. The roads to the fieldwork locations in Bukama and Lubudi, for example, proved to be so inaccessible during the rainy season that, after getting stuck several times, I decided to take this two-day trip only by motorbike to circumvent impassable road conditions. The lack of statistical data and centrally accessible legislation also

⁴⁶ I had previously spent five months conducting fieldwork in Santa Cruz, Bolivia.

⁴⁷ For example, there was no permanent provision of basic services such as water, electricity, Internet or safe public transport, and there were unhygienic conditions and a general lack of health care facilities in remote fieldwork locations.

complicated the research, requiring significant time and necessitating work to gain a general understanding of all of the different legislation applicable to the mineral sector.

3.6.1 Positionality and ethical considerations

For me, the main challenges to deal with were positioning and securing myself within the research setting. As security in Congo depends in large part on one's social networks, I soon understood the necessity of creating my own '*parapluie*'.⁴⁸ This meant that, prior to visiting the mine sites, I arranged a research permit and an '*ordre de mission*' (i.e. a document outlining my reasons for travelling in the Congo), making sure that it was signed and stamped by the provincial governor's office, the university principal and the heads of every state authority I might encounter during my work, including city majors and migration and intelligence services (e.g. the *Agence Nationale de Renseignement*, ANR).

This way of working meant that, upon arrival in every city or village, I had to appear before these authorities to present my paperwork. Although this often led to waiting, negotiations over the price of official stamps, and sometimes long dinners or drinks, having the permission of the highest state and traditional authorities proved to be indispensable on multiple occasions and facilitated the research enormously.

Being a woman not only demanded a certain approach towards security; my identity also influenced people's perceptions and expectations of me and their behaviour towards me. There were the instances where both informal and formal interviews—even when I was accompanied by a research assistant—were misunderstood by male informants as 'social gatherings', during which some showed more interest in my marital status and Western views on polygamy than in a discussion of the functioning of the Congolese state authorities. After the first months in the field, I started wearing a 'wedding ring' and more formal clothing, and I introduced myself as *Madame Jose*. Presenting myself as a married woman improved my authority status and helped me to steer the interviews more towards the themes of natural resource governance and conflict-mineral initiatives.

Being *mzungu*,⁴⁹ however, turned out to be more difficult to circumvent. In a mid-sized town such as Luena, with a population of around 50,000 inhabitants, I became painfully aware of my visibility when, after only a couple of days in town, many of the research participants I met for the first time already seemed to know me, as well as my accommodation address.

Being *mzungu* also made the people I encountered have certain expectations of me. For many, it seemed difficult to understand my role as a researcher, finding it strange that I travelled all the way to the mine sites without wanting anything other than to understand the dynamics and governance of mineral exploitation and trade. When I arrived at Luena's or Bukama's mine sites, people usually took me either for a mineral buyer or an International Tin Research Institute Tin Supply Chain Initiative or NGO staff member. In some cases, research participants clearly expected that talking to me would improve their situations, as one interlocutor made very clear when I asked him for a second interview:

⁴⁸ Umbrella

⁴⁹ Swahili for white person

Why would I make time for you again? You have done nothing to change my situation since the last time we talked.

The issue of reciprocity surfaced in many research interactions. As a researcher, I often felt indebted to the participants because I asked people to share their time, knowledge and experience with me, and I usually could not give much in return. To prevent participants from providing me with information they thought I wanted to hear, I had decided not to offer financial payments for interviews. Instead, I paid for a drink or lunch, shared information or contacts I thought would benefit them, or, on occasion, gave local state officials copies of legislative documents that had not been provided to them.

My visibility in the field meant that the people I talked to also stood out. In organising both formal and informal interviews, I tried to safeguard my research participants' identities and information as much as possible, approaching ethics as an ongoing exercise throughout my research (Fujii, 2012). For example, I let the research participants decide on the interview venue, or I planned the interviews to take place in settings or positions where prying ears (i.e. ANR officers or colleagues) would have the smallest chance of overhearing us. I also took other precautions to ensure confidentiality. At every new engagement (interview, focus group or mine site visit), I introduced myself openly as an academic researcher, showing my research permit, and briefly explained the purpose of the research, because I deemed it very important never to disguise my own identity or the reason for our conversations. Interviews commenced only after the research participants explicitly granted consent to participate in the research and to my taking interview notes. For several reasons, the research participants were asked to grant informed consent orally instead of in a written statement. First, not all research settings allowed for signing informed consent forms; for example, in mine sites, many of the research participants were illiterate. Second, as interviews often took place in public places, requesting participants to fill out informed consent forms might have raised suspicion amongst bystanders. Third, as was the case for audio-recording the interviews, requesting the signing of a consent form at the start of an interview could create distance between the researcher and the participant, formalise the interaction and make participants more wary about their answers. I made sure not to reveal the comments or the identities of research participants, guaranteed confidentiality regarding participation in an interview and asked permission for the use of quotations. Finally, I treated interview and observation data confidentially, replacing the names of the research participants with codes and avoiding bringing my notes with me on any new fieldtrip.

3.6.2 Limitations

This visibility and the interconnected expectations became a real challenge during my first visit to Luena. Needing official authorisation to visit Bukama's mine sites, I discussed my plans with both the concession owners and the present state authorities. This approach led to a strange situation: Many of the stakeholders seemed to have an interest in accompanying me during the mine site visit, ranging from demanding a 'per diem', to wanting to make sure I got the 'correct' information, to wishing to 'prepare the terrain'. In the end, during this first visit, I was

accompanied by an entourage of no less than eight people,⁵⁰ encountered cooperative representatives who were all wearing freshly cleaned uniforms and helmets, and was later told that all children were removed from the mine site before my arrival. This probably happened because people mistook me for an iTSCi staff member and assumed I was there to check on the presence of child labour or armed groups at the mine sites. Needless to say, the entourage accompanying me and the ‘prepared scene’ made it very difficult to conduct unbiased interviews or observations. Nevertheless, the experience taught me a lot about people’s ideas and expectations of me and made me very aware that the situation presented to me would not necessarily be the most natural one.

Luckily, these sorts of events seemed primarily to occur during my first visits. Becoming more familiar with my presence after I had returned several times and understanding that I would not pay them for their ‘assistance’ lessened those authorities’ interest and suspicion in my fieldwork time. Being flexible, patient and taking the time to explain my position when such situations arose, as well as playing into the Congolese humour and openness, greatly helped to remediate such tense situations and to relax suspicious people.

Choosing a geographically delimited fieldwork area (in this case Bukama), especially in combination with conducting ethnographic research, comes with another limitation. The choice to produce high-quality data and in-depth analyses necessarily limits the research to a relatively small n-size and makes generalisation more difficult. The research design is thus a deliberate trade-off between generating high-quality empirically derived data and gaining deeper insights at the expense of statistical reliability and larger generalisation power. Taking these limitations into account, it is not my ambition to propose a one-to-one generalisation of this research’s findings about policy negotiations and the workings of natural resource governance to other settings. Nonetheless, generalisations can be made on the basis of case-study findings (Flyvbjerg, 2006), which can resonate and speak back to other cases situated within similar contexts of limited statehood (Yin, 2009: 43, cited in Schouten, 2014: 33).

A last limitation that deserves discussion is the issue of access. The fact that certain stakeholders or elements of governance and policy were more visible or easier to access than others might have biased this study towards certain directions. An example is the focus put on MMR, the Indian large-scale mineral trader, throughout the study. Although MMR is by far the largest 3T mineral trader in the former Katanga province, owning over 80% of the market in 2012, other large-scale mineral buyers also play an active role in the mineral trade in Bukama, the geographical region under study. These include Chemicals of Africa, Opera Mining and SinoKatangaTin. The fact that MMR, in contrast to the other three operators, took a rather open approach to this study and opened its offices, mine sites and personnel for interviews and observations most likely influenced the analysis. This is not only because the fieldwork data over-represent MMR and leave the practices of other mineral traders underexplored; it possibly also influenced the analysis because I have come to know MMR’s employees and managers, as well as their perspectives, personally.

⁵⁰ Including Mining Police agents, state mining authorities, a cooperative representative and the mine site manager

3.6.3 Security and ethics

The fieldwork for this dissertation was initially planned to be conducted in South Kivu and northern Katanga. This original plan changed after a rather rocky first preliminary field visit to South Kivu in October 2012.

While conducting a joint fieldwork visit in the Kalehe district together with other academic colleagues, we were caught up in a distressing security incident. Our fieldwork and the questions we posed had raised concerns among a local rebel group, who believed our team members were actually infiltrators working for elements hostile to their group. This is a known risk of conducting fieldwork in conflict-affected situations, as has also been described by other scholars, such as Price (2007), who highlighted that posing sensitive questions can easily be misinterpreted as manipulation, spying or intelligence gathering.

After spending two days in the Kalehe district, we were blocked on our way back to Bukavu, South Kivu's capital, by a small group of armed and drugged individuals. They forced us to travel with them on motorbikes to an unknown location. Fortunately, the Congolese army (*Forces Armées de la République Démocratique du Congo*, FARDC) blocked the road approximately 60 kilometres further down, and we managed to escape and safely reach a United Nations MONUSCO military base in the region.

In the days that followed, the security situation remained volatile in Kalehe. The rebel group continued to block the road to Bukavu and had surrounded the MONUSCO helicopter stand, making it unsafe for us to leave the MONUSCO compound. It took a stressful and failed attempt to travel back to Bukavu, negotiations with local chiefs and several days of planning before we were able to return to Bukavu, escorted by a heavily armed FARDC and MONUSCO detail.

Although the entire team got back home safely, the incident made me feel threatened, highly vulnerable and very much aware of the volatile security situation in the Kivus—not just for its inhabitants, but also for researchers, like myself, because the researcher's presence and programming can easily affect the (perceived) interests of other actors (Brabant, 2002).

This security incident impacted me personally, and it also affected the research to a certain extent. Although I was unsure for a while about whether to continue my fieldwork in the DRC, I came to the conclusion that I did not want a distrusting rebel group in South Kivu to have the final say regarding the continuation of my research. I decided to return to the DRC and pick up my fieldwork again. However, the idea of traveling back to the Kivus and living there for 1.5 years to conduct research was too stressful at that time.

Consequently, I decided to focus on another geographical region—the more stable and less conflict-ridden Katanga Province in southern DRC. Consulting literature on the dangers of fieldwork in conflict-affected regions (Brabant, 2002; Hilhorst et al., 2016), I took a wide range of security measures to decrease the chance of additional security incidents occurring, including keeping a guard dog at my residence, being accompanied during my fieldwork travels by a research assistant, constructing a (social) network that included highly placed officials to embed my fieldwork, and carefully introducing my research in every new research location.

Motivated by these insights, I decided to adapt my research design and relocate my fieldwork to the economic mining heart of the DRC, the former Katanga province.

3.7 Organisation of the analysis

There is not a fixed moment in time when I started the data analysis for this research. After concluding a fieldwork period, I often read and re-read my fieldwork interview and observation notes until patterns began to emerge. As part of this process, I wrote short memos on remarkable findings or elements that puzzled me, allowing for preliminary and intermediate analysis. After most of my fieldwork was completed, I started coding the large amount of data gathered using the NVivo qualitative analysis software program. The data were coded both deductively and inductively. This means that the data were coded using the analytical framework laid out for this research (i.e. deductively), including conceptual nodes such as 'negotiation tables' and 'process of adjustment', but the data were also coded and analysed on the basis of the main themes encountered during the data gathering or picked up on during the analysis, including nodes such as 'uneven policy implementation' and 'access to the mineral trade'.

Photo: Jose, A. Diemel, February 2015, a group of artisanal miners resting at the site of their mine pit at Kyenze Central mine, in Bukama district, Haut-Lomami, DRC



Interrogating the nature of conflict-mineral interventions

Since the early 2000s, the government of the Democratic Republic of the Congo and the international community have initiated a reform process in the artisanal mining sector to break the linkages between mineral extraction and violent conflict. Research on the reforms reaches different conclusions about their impact on conflict, governance and livelihoods, and usually focuses on one aspect of the reforms, accepting the objectives of the policy at face value. This discourse analysis of the objectives of reform policies aims to understand how they represent the problem, the solutions they envision and their proposed plans. The study applied the method of interpretive policy analysis to four policy documents originating from 2010 to 2012: the UN Group of Experts report, the Dodd–Frank Wall Street Reform and Consumer Protection Act, the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas, and the International Conference on the Great Lakes Region Regional Certification Mechanism Manual. The study finds that the policies hinge on seemingly commensurate objectives, varying between conflict-free sourcing and promoting peace. This chapter finds that, in reality, these objectives may not align, and that much reform practice is geared towards conflict-free sourcing and is far less appropriate for promoting peace. This includes the tendency to implement the policies in conflict-free zones, the policies' narrow scope, the reliance on the Congolese government and the seeming indifference to the impact of the reforms for poor miners. The findings suggest that exercising due diligence has become a goal in itself. This raises the question of whether giving buyers a clear conscience and developing a traceable and conflict-free product has received more prominence than has contributing to improving the situation of the Congolese population.

This chapter was presented at the international conference on 'Unintended Effects of International Cooperation', organised by Radboud University (The Hague, the Netherlands, January 2017).

It has been accepted for publication as a journal article as Diemel, J.A. and D. Hilhorst (2018) Unintended consequences or ambivalent policy objectives? Conflict minerals and mining reform in the DR Congo. *Development Policy Review*. <https://doi.org/10.1111/dpr.12372>

4.1 Introduction

Publications on the Democratic Republic of the Congo (DRC) often begin with the startling contradiction that one of the richest countries in the world in terms of natural resources is also marred by deep poverty, stagnation, the breakdown of governance and ongoing conflict. Since the early 2000s, it has become common to view this situation less as a contradiction than as an inevitable outcome, with control over precious mineral deposits providing both the incentive for and the resources underpinning violent conflict. Congolese armed groups—both rebels and public forces—use the so-called ‘conflict-minerals’ trade to finance their war efforts, to enrich themselves and to grease the wheels of patronage. A large number of policy initiatives designed to break the cycle of conflict and the exploitation of mineral resources have changed the character of artisanal mining in eastern DRC substantially. In a country where change often seems elusive, the mineral sector has seen a substantial makeover in just a few years’ time, as a result of both national and international interventions. This includes changes in the sector’s governance and taxation structures, the introduction of cooperatives, and the launch of traceability and certification schemes.

The reforms in the DRC’s artisanal and small-scale mining (ASM) sector form an interesting case for debates about the unintended consequences of development initiatives. The introduction of many initiatives in a short time span has resulted in a significant amount of implementation activity, triggering a great deal of research on the effects of the reforms. Since the start of the reforms’ implementation in 2010–2011, there have been fierce debates concerning the success, viability and—especially—the intended and unintended consequences of these initiatives. Policy makers and NGOs have highlighted the positive effects of the initiatives on enhanced transparency and good governance (OECD, 2012: 10). There have also been claims that the initiatives have led to a substantial decrease in militarisation, from almost 100% in 2010 to 33% in 2014 (Bafilemba et al., 2014: 8–9). These positive assessments have been contested by other research, which has cast doubts on the militarisation and governance effects and pointed to unintended consequences of the reforms, especially on the livelihoods of Congolese mining communities and small-scale Congolese mineral traders, as will be elaborated in detail in the next section.

Remarkably, the different streams of research on the artisanal mining reforms—whether focusing on intended or unintended consequences—seem to have taken the ‘intentions’ of the policies for granted. This does not mean that the design and assumptions of the reform policies have escaped critical discussion. Several scholars have analysed the problematic design of Western policy interventions in the DRC, on conflict-mineral policy in particular. Autesserre (2012) and Seay (2012) have pointed out misconceptions in conflict-mineral policy on the relationship between the mining sector and conflict in the DRC. Other researchers have noted the overly technical approach of the reforms (Geenen, 2012); the erroneous representation of Congo’s mining sector as criminal, unregulated and militarised (Koddenbrock, 2012; Nest, 2011); and the frequent and incorrect association of state weakness in the DRC with the absence of governance (Radley and Vogel, 2015). However, these critical observations have usually served only to provide a commentary on the design of the policies to introduce empirical work that analysed the consequences of a single intervention from the wide range of initiatives.

In contrast, this chapter takes the design of these policies as the primary subject of analysis. The study explores a key set of policies, posing several important questions: How do the policies frame the *problématique* of conflict minerals? How do they view its solutions? What objectives are embedded into the policies? Which assumptions are interwoven into the policies about the context in which they are intended and expected to work?

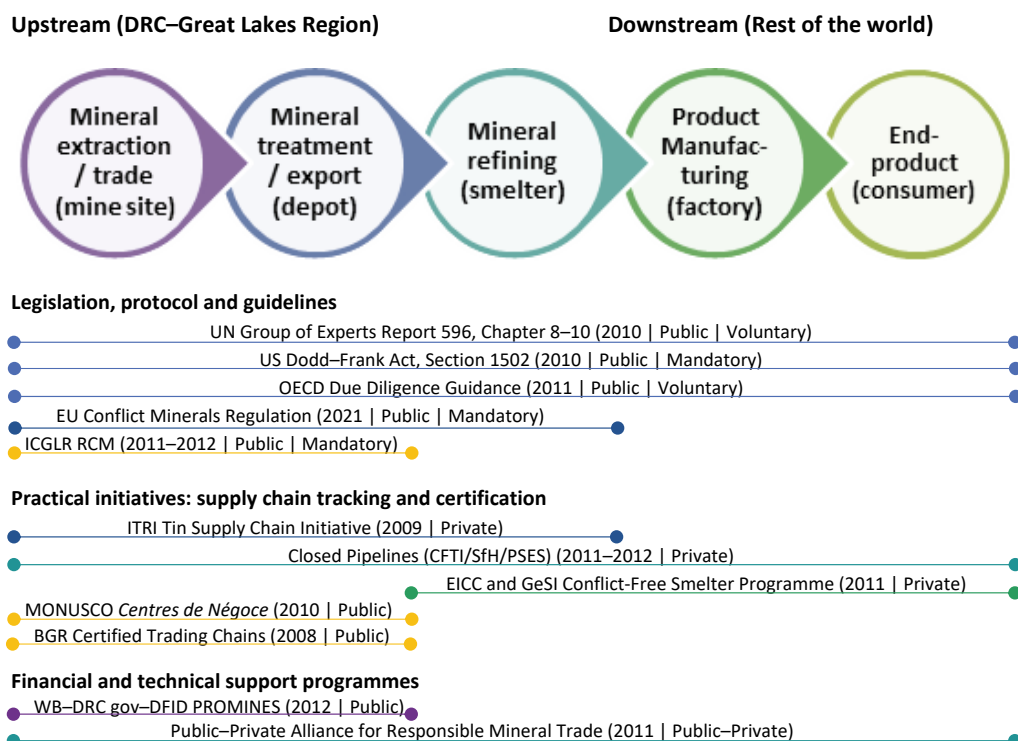
This chapter rests on the premise that, to discuss the intended and unintended consequences of a policy, it is important to understand its ‘intentions’. The chapter is based on a discourse analysis of four policy documents that have been central in the developments making the 3T⁵¹ mineral trade in the DRC more transparent: the 2010 UN Group of Experts report on the DRC, section 1502 of the Dodd–Frank Wall Street Reform and Consumer Protection Act (2010), the Organisation for Economic Co-operation and Development (OECD) Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (2011), and the International Conference on the Great Lakes Region (ICGLR) Regional Certification Mechanism Manual (2011). These policy documents form the backbone of many ongoing initiatives and are often cited in the conflict-mineral debate. The present chapter examines their problem analyses and proposed solutions. Finding that these policies are less uniform in their objectives than is usually assumed, the chapter explores how this analysis can help us to understand some of the alleged unintended consequences of the policies.

The chapter also seeks to contribute to the growing literature on the unintended consequences of development programmes. This literature has focused mainly on effects brought about during implementation, when the ‘interventions intrude into a reacting system’ (Sherrill, 1984: 31). These unintended consequences result from human mistakes during planning and implementation or from complexities in the realities of intervention (Koch and Schulpen, 2017: 5). Existing work has taken the ‘intentions’ of policy for granted, and there has been far less attention to the policy side of the equation. The policy attention that has been there takes note of hidden intentions, and it has been pointed out that unintended consequences may actually have been anticipated and—although undesired—accepted as inevitable trade-offs or side-effects (Koch and Schulpen, 2017). However, little attention has been given to the inconsistencies, contradictions and lack of clarity in the policies that stem from the complexity of policy making. This complexity may provide at least a partial explanation for some of the observed consequences. Using a detailed case study of the artisanal mining reforms in the DRC, the present study further explores unintended consequences by highlighting the importance of viewing policy making as a social process rather than merely a rational exercise linking clearly defined goals to courses of action (Colebatch, 1998). Policy making is a complex process, full of multiplicity and contradiction, which find their way into the wording of the resulting policies. Policy development includes an array of actors with diverging backgrounds, perspectives and objectives, and it is influenced by media, public pressure and current politics. This means research into unintended consequences should become more symmetrical, twinning the examination of interventions with an in-depth analysis of the policies that are being implemented.

⁵¹ Cassiterite, coltan and wolframite are refined into the 3T metals: tin, tantalum and tungsten.

The first part of the chapter introduces the artisanal mining reforms and reviews the literature about their effects. This is followed by a section outlining the discourse analysis methods used to interrogate the policies. The findings from the discourse analysis are then presented, before revisiting the literature on the conflict-mineral reforms in light of these findings and proposing an alternative understanding of some of the findings of previous work.

Figure 4.1. Schematic overview: mineral supply chain and conflict-mineral interventions



Note: This overview applies to the DRC generally, not only to Katanga.

4.1.1 Mining reform initiatives in the DRC

In the early 2000s, a stream of reports⁵² linked the protracted crisis in Congo to the country's natural resource sector, especially mining. Additionally, advocacy groups started campaigns on the issue of conflict minerals in the DRC in the late 1990s and early 2000s, pressuring governments and multinational corporations to stop the looting of Congolese conflict minerals and to prevent the trade in those minerals from financing the war efforts of armed groups. As a result of both of these trends, ensuring responsible mineral supply chains became a major priority on the international agenda towards 2009–2010. In the following

⁵² UN Group of Experts 2001–2004, SIPRI, IPIS, Pole Institute, International Alert

years, various stakeholders such as the United States government, international organisations, individual donor countries and the extractive industry developed an array of 1) legislation, protocols and guidelines; 2) initiatives that implement supply chain tracking and certification; and 3) financial and technical support programmes.

These interventions differ in terms of whether they are voluntary or mandatory, whether they are initiated by the private or public sector, and whether they operate ‘upstream’ at mine sites or aim to regulate trade further downstream in the chain. Figure 4.1 provides an overview of the initiatives that were developed from 2009 to 2015 targeting cassiterite, coltan and wolframite mineral production and trade in Katanga.

4.1.1.1 Guidelines and legislation

The decade-long discussion on the problematic link between Congo’s protracted violent conflict and the country’s extractive industry became consolidated in a series of legislative documents and guidelines published from 2010 to 2011. This process started with the extensive report of the UN Security Council’s Group of Experts Report 2010/596, which highlighted the large-scale coltan smuggling from eastern DRC, as well as illicit deals between Western companies and Congolese warlords. The UN Group of Experts was mandated to investigate the illegal extraction and taxation of natural resources in the DRC in 2001. In 2009, the Security Council extended this mandate and additionally required the Group of Experts to produce recommendations on how importers, processing industries and consumers of Congolese minerals could exercise due diligence. In the Group of Experts’ November 2010 report, these recommendations appear in the form of a five-step framework.

The promulgation of the mandatory Section 1502 of the Dodd–Frank Wall Street Reform and Consumer Protection Act put forward by the Obama Administration followed suit in July 2010. The overall aim of the Act was to respond to the economic crisis and financial instability, but it also included Section 1502, which dealt with the extraction and trade of conflict minerals from the DRC. The Act required US stock market-listed companies sourcing 3T minerals from the DRC or adjoining countries to verify the origin of these minerals and to exercise due diligence on both their mineral source and chain of custody to avoid the financing of armed groups. The Dodd–Frank Act, as Section 1502 would become known in popular language, was the first (and only) mandatory intervention treating conflict minerals. The Act received much resistance from private industry. The US National Association of Manufacturers for example claimed that the Securities and Exchange Commission (SEC) rules would cost US industry enormously to implement, estimating a total implementation cost of USD 9 billion to 16 billion (Kimpel, 2011). Despite these critiques, the SEC issued the Conflict Mineral Disclosure Rule in 2012, additionally obliging these companies to report on the due diligence measures they undertook and to cooperate with independent audits, starting in May 2014.

Simultaneously to the development of these far-reaching rules, the OECD developed its Due Diligence Guidance on Responsible Supply Chains of Minerals from Conflict-affected and High-risk Areas in 2011, aiming to facilitate these companies’ conducting of due diligence to prevent contribution to the armed conflict. Mirroring the UN Group of Experts’ report, the OECD guidance provides a voluntary five-step framework that was developed through a multi-stakeholder process involving 11 ICGLR member states, industry and civil

society representatives, MONUSCO and the United Nations Group of Experts (UN GoE). The framework highlights the need 1) to use chain of custody tracking systems; 2) to develop risk assessments and mitigation measurements; 3) to organise third party audits of those systems; and 4) to publically disclose information on company policies and practices.

The European Union (EU) developed its own Conflict Minerals Regulation through what turned out to be a lengthy process. The process started in 2010 with a European Parliament (EP) resolution calling for an EU certification system for conflict minerals. This was followed by public consultations in early 2013 and two years of negotiations between the EP and the European Commission (EC) on the geographical scope, the types of minerals to be included, the types of companies to be targeted and the binding character of the regulations. In June 2016, the EP and EC reached a political understanding that led to an agreement on the legislative text between the two and the European Council in November 2016. The EU Conflict Minerals Regulation requires importers of raw tin, tantalum, tungsten and gold (3TG) material (i.e. smelters and refiners) from conflict-affected and high-risk areas (thus not only Central Africa) to have set up a due diligence system before 21 January 2021. The mandatory regulation does not include downstream manufacturing companies and exempts small importers such as jewellers. Attempting to harmonise its regulations with previous initiatives, the EU aligned with the OECD five-step framework and acknowledged elements of existing supply chain due diligence schemes, such as third-party audits and reporting.

Concurrently with—and to some extent preceding—the international guidelines and legislation, the Congolese government moved in a similar direction. The high level of informality caused by the lack of state oversight over the mineral trade and the related undocumented trade and low tax revenues (Spittaels and Caesens, 2010) were an important reason for the Congolese government to push for mining sector reform. Aiming to increase oversight and taxation capacity over the 3T mineral supply chains, the Congolese Ministry of Mines and Ministry of Finance adopted a joint decree outlining the implementation of nationally designed traceability measures in October 2010.⁵³ The supply chain was similarly reordered by a March 2010 ministerial decree that prohibited artisanal mining ‘*en solo*’, stimulating the establishment of miners’ cooperatives throughout the country. Finally, partly in response to the new international requirements issued around 2010–2011, the Congolese government adopted the international certification and due diligence standards in 2012⁵⁴ and the ICGLR export certificate in 2013, as part of Congolese law.

4.1.1.2 Practical initiatives: Supply chain tracking

As a response to these guidelines and legislative actions, specific practical initiatives were developed to facilitate companies in exercising due diligence and to stimulate responsible sourcing. Faced with the development of the far-reaching US legislation and confronted with NGO naming-and-shaming campaigns, the tin and tantalum industry, led by ITRI⁵⁵ and TIC,⁵⁶

⁵³ *l'Arrêté interministériel* № 0711/CAB.MIN/MINES/01/2010 et № 206/CAB/MIN/FINANCES/2010

⁵⁴ *Arrêté Ministériel* N0058/CAB.MIN/MINES/01/2012 and *Arrêté Ministériel* N0057/CAB.MIN/MINES/01/2012

⁵⁵ International Tin Research Institute, an association for tin producers. <https://www.itri.co.uk/information/itsci>

⁵⁶ Tantalum–Niobium International Study Centre, an association representing the interests of the tantalum industry

developed a scheme to determine the origin of minerals and track them along the supply chain. By registering mineral trade data during commercial transfers at the mine site, mineral depot and export level and by tagging mineral bags with unique barcodes, the ITRI Tin Supply Chain Initiative (iTSCi) provided a means for companies sourcing from the DRC to prove that their chain of custody did not contribute to armed conflict. Already in 2009, before the introduction of the Dodd–Frank Act, iTSCi was launched in South Kivu and Rwanda. However, it had to be suspended in 2010 because of a presidential ban on 3T minerals mined in the Kivu and Maniema provinces. In the following years, iTSCi was extended to Katanga and Maniema, and, beginning in 2012, it resumed operating in the Kivu provinces (iTSCi, 2013). In addition to ‘tagging’ and trade registration activities, iTSCi also includes baseline risk assessments of each Congolese mine site and audits of every supply chain operator wishing to become a member⁵⁷ of iTSCi. The iTSCi scheme was the exclusive provider of traceability from 2011 to 2014. However, in recent years, it is increasingly being forced to share the market for traceability with the newly established coalition between GeoTraceability⁵⁸ and the Better Sourcing Programme. Although the coalition initially faced considerable reticence from the Congolese government during its first years of operation, it succeeded in launching a pilot project in North Kivu in May 2014, and it signed a memorandum of understanding with the Congolese government in December 2014, allowing the coalition to extend their activities to other 3T mine sites where the iTSCi scheme is not yet operating.⁵⁹

Securing due diligence in supply chains was further extended beyond the iTSCi scheme through the establishment of two additional initiatives: the *Centres de Negoce* (CdN) and closed pipelines. The *Centres de Negoce* initiative involved the construction of four fixed trading centres in North and South Kivu⁶⁰ from 2010 to 2012. This was initiated by the UN peacekeeping mission MONUSCO and its partners⁶¹ with the aim of creating a competitive and safe trading area where miners and traders could trade minerals without the interference of armed groups.⁶² Closed pipelines, in contrast, were established by private industry actors to form pre-defined commercial partnerships between mine operators, DRC-based traders, smelters in Asia and manufacturers all over the world. By cutting out the intermediate traders and arranging for fixed commercial transfers, these closed pipelines increased the oversight over and predictability of the supply chain. Examples of closed pipelines are the South Kivu-centred⁶³ Conflict Free Tin Initiative (CFTI), initiated by Philips and the Dutch Ministry of Foreign Affairs in September 2012; the North Katanga-based⁶⁴ Solutions for Hope (SfH), launched in July 2011 by Motorola Solutions;⁶⁵ and the Partnership for Social and Economic

⁵⁷ In 2015, iTSCi’s membership list included 22 full Katanga-operating members and 18 provisional Katanga members.

⁵⁸ Initiated by PricewaterhouseCoopers

⁵⁹ Interview with a high official of GeoTraceability, 13 April 2015

⁶⁰ Three trading centres in North Kivu: Rubaya, Itebero and Njingala

⁶¹ *Mission de l’Organisation des Nations Unies pour la Stabilisation en République Démocratique du Congo*, in collaboration with the International Organisation for Migration and the ‘Stabilisation and Reconstruction of Zones Emerging from Armed Conflicts’ programme (STAREC)

⁶² <http://mptf.undp.org/factsheet/project/00074614>

⁶³ Sourcing from the Kalimbi mine in Nyabibwe; <http://solutions-network.org/site-cfti/>

⁶⁴ Sourcing from the Mayi-Baridi and Luba mines; <http://solutions-network.org/site-solutionsforhope/>

⁶⁵ In coalition with CDMC, MMR, AVX corporation, F&X Electro-Materials Limited and GAM

Sustainability (PSES), which was initiated by KEMET and partners and began operating in North Katanga⁶⁶ in 2012.

On an even larger scale, the US-based Electronic Industry Citizenship Coalition (EICC)⁶⁷ and the Global e-Sustainability Initiative (GeSi)⁶⁸ led by the IT industry combined forces to tackle the problem of conflict minerals at the upstream side of the supply chain. Perceiving smelters and refiners as the ‘choke point’ in the mineral supply chain, these two initiatives launched the Conflict Free Smelter programme (CFS)⁶⁹ in 2011, developing a reporting template for its members to facilitate their reporting to the SEC.

4.1.1.3 Practical initiatives: Certification and validation

The certification of mine sites, traders and export lots follows supply chain traceability as the second necessary element to ensure conflict-free sourcing from a conflict-affected country such as the DRC. Through the validation of mine sites, auditing of mineral traders and certification of export lots, companies sourcing from the DRC can verify and prove that they source only from mines validated to be conflict-free and buy only from mineral traders who are not associated with armed groups. The fact that a company buys a certified lot indicates that the DRC government also acknowledges that the traded minerals are conflict-free.

This complicated ensemble of certification was initiated by the German government-supported Federal Institute for Geosciences and Natural Resources (BGR). BGR launched Certified Trading Chains (CTC) in 2009. These involved, in addition to attention to the conflict dimension, 19 further certification standards, including good governance, transparency, environmental impact and working standards.⁷⁰ CTC inspection and certification of a handful of mines was undertaken in North and South Kivu and in North Katanga from 2009 to 2012.

The CTC system faced ‘competition’ when, in 2011, the ICGLR launched the Regional Certification Mechanism (RCM) along with five other practical tools.⁷¹ In contrast to the CTC, the RCM provided protocols and standards for certification and mine site visits concentrating on the illegal exploitation of natural resources by armed groups in the Great Lakes Region, with little attention given to other issues, such as environmental or social standards.

With the adoption of the RCM into Congolese law in 2012⁷² and the launch of the ICGLR export certificate in July 2013, the CTC system was replaced. Validation missions

⁶⁶ Sourcing from the Kisengo mine, in collaboration with CDMC, MMR and K-Salt Tantalite Resources

⁶⁷ The United States-based Electronic Industry Citizenship Coalition, established in 2004, aims to improve socioeconomic and environmental conditions in the global electronics supply chain. <http://www.eiccoalition.org/>

⁶⁸ Global e-Sustainability Initiative, established in 2001 by companies in the IT sector to foster environmental, economic and social sustainability

⁶⁹ <http://www.conflictreesourcing.org/about/>

⁷⁰ http://www.bgr.bund.de/EN/Themen/Min_rohstoffe/CTC/Home/CTC_node_en.html

⁷¹ 1) Regional Certification Mechanism (RCM); 2) The harmonisation of national legislation; 3) Formalisation of the artisanal mining sector; 4) Regional mineral tracking database; 5) Promotion of the Extractives Industry Transparency Initiative; 6) Whistle-blowing mechanism

⁷² *Arrêté Ministériel N0058/CAB.MIN/MINES/01/2012 Fixant les procédures de qualification et de validation des sites miniers de filières aurifère et stannifère dans les provinces du Katanga, du Maniema, du Nord-Kivu, du Sud-Kivu et de la province Oriental*

organised by joint teams of provincial mining services, MONUSCO, the International Organisation for Migration (IOM), BGR and Congolese civil society started in 2012 and had validated 178 of the 1574 East Congolese mine sites as of 2016 (Dranginis, 2016).

As Figure 4.1 shows, there is significant overlap between the various initiatives. In some cases, this means that they operate in congruence and complement each other. For example, iTSCi provides a chain of custody tracking solution for companies following the OECD guidance. In other instances, however, harmonising these initiatives has appeared challenging. The lack of coordination between the initiatives has sometimes resulted in serious problems, as was the case when the issuing of ICGLR certificates for mineral export loads in June 2013 was not well aligned with the execution of validation missions and the coverage of traceability schemes in the concerned mine sites.

4.1.1.4 Financial and technical support programmes

Finally, conflict-mineral interventions also include financial and technical support programmes. PROMINES, a programme that is jointly funded by the World Bank and the Department for International Development (DFID) with a budget of USD 90 million (although DFID decided to withdraw its funds in 2016), aims, in broad terms, to revive artisanal mining in the DRC by improving its legal status and building capacity for strengthened sector management.⁷³ Part of PROMINES' budget is used to support the DRC government's efforts to adopt traceability and certification. For example, the programme has financed a comprehensive mapping project run by the Congolese Mining Registry and the International Peace Information Service (IPIS)⁷⁴ to provide insight into the militarisation of the DRC's mine sites.

The Public–Private Alliance for Responsible Mineral Trade (PPA–RMT)⁷⁵ is a multi-stakeholder platform aimed at supporting solutions to conflict minerals challenges within the DRC's mineral supply chain. Each year, this platform launches a request for project proposals, and the PPA-RMT has funded various pilot projects ranging from certification of gold initiatives to capacity-building programmes. The platform's members, who are requested to provide funding for these initiatives, include USAID, the US State Department, independent companies, industry associations and civil society.

Arrêté Ministériel N0057/CAB.MIN/MINES/01/2012 Portant mise en œuvre de Mécanisme Régional de Certification de la Conférence Internationale sur la Région des Grands Lacs (CIRGL) en République Démocratique du Congo

⁷³ <http://www.worldbank.org/projects/P106982/drc-growth-governance-mineral-sector?lang=en&tab=details>

⁷⁴ A Belgian research institute that has been mapping the relationship between conflict and 3T and gold mining in eastern DRC since 2010

⁷⁵ <http://www.resolve.org/site-ppa/files>

4.1.2 Consequences of the reforms

As it is not possible to review the consequences of all of the above initiatives in the scope of this chapter, this section summarises the main issues raised in the academic literature regarding the reforms' consequences. Publications have noted many shortcomings, glitches and new problems that have appeared in the first five years of the implementation of the reforms. Here, three major concerns are highlighted.

With regard to the objective of reducing armed conflict, proponents and critics have not yet found common ground on the positive impact brought about by the interventions. Longitudinal data from an IPIS study on militarisation of 3T mine sites in eastern DRC does point out a downward trend from almost 100% in 2010 to 33% in 2014 (IPIS, 2015). Proponents of the reforms, like the NGO the Enough Project, attribute these security improvements in eastern DRC to the policy initiatives (Bafilemba et al., 2014). However, several researchers have cast doubt on the extensiveness of these positive developments. Although the militarisation of Congolese 3T mine sites does seem to have been reduced, IPIS itself has argued this militarisation has been displaced to the gold sector (IPIS, 2015). Others have questioned whether such reductions can be attributed to the reforms, rather than broader political and military developments (Vogel and Raeymaekers, 2016). Finally, past research has noted the continued influence of armed groups, whose commanders have found ways to continue operating in the project sites by using decoy companies consisting of family members to manage their day-to-day interests (Cuvelier et al., 2014: 12).

Many researchers have criticised the unintended consequences of the reforms on the livelihoods of Congolese mining communities and small-scale Congolese mineral traders. Anticipating the introduction of the Dodd–Frank Act, President Kabila issued a temporary ban on artisanal mining in 2010–2011. This heavily impacted the miners and the surrounding economies (Cuvelier et al., 2014; Geenen, 2012.; Johnson, 2013; Parker et al., 2016; Seay, 2012). In the years following the ban, a large majority of people living in mining communities in Katanga have continuously experienced negative consequences of conflict-mineral interventions on their livelihoods (Bashwira, 2017; Iguma, 2017). Changing mineral trade patterns have not only led to the withdrawal of international mineral buyers from the Congolese market (Cuvelier et al., 2014), but also impeded Katanga's mining communities' ability to benefit optimally from the mineral extraction and trade (Diemel, 2016). The establishment of 'closed pipelines' and the emergence of a near monopsony by large-scale mineral buyers have restricted access to mineral trade for small-scale actors and hence reduced their income and negotiation position (Diemel and Cuvelier, 2015; Freudenthal, 2017; Iguma, 2017).

A third criticism concerns the limited pace and scope of the interventions during their first five years of implementation, especially in eastern DRC (Cuvelier et al., 2014; Diemel and Cuvelier, 2015; Radley and Vogel, 2015). In 2015, five years after the start of the initiatives, only 9% of east Congolese 3T and gold mine sites were incorporated into certification schemes (IPIS, 2015), and only 4% of South Kivu's mine sites were covered by traceability schemes (Radley and Vogel, 2015: 407). Mostly caused by a lack of security and financial resources (Cuvelier et al., 2014), this slow pace of implementation risks the policy being mainly implemented in those provinces least affected by conflict, such as the former

province of Katanga (Diemel and Cuvelier, 2015). It also drives artisanal miners working outside of the incorporated mine sites into the margins of legality (Cuvelier et al., 2014).

What do these three main issues (the uncertain outcomes on conflict, the effects on livelihoods, and the pace and scope of implementation) tell us about the reform policies? Do they point to unintended effects and misdirected programming, as the criticisms summarised above imply, or are these issues related to the nature of the reform policies? To answer this question, a discourse analysis was conducted of key policy papers that guided the reforms.

4.2 Methods

This study analysed four policy documents selected as key documents influencing the reform policies, based on a literature review and interviews. These four policy documents formed the backbone for the development of the many existing public and private initiatives and continue to guide much of the thinking in the conflict-mineral debate. They reveal the problematic link between the extractive industry and conflict in the DRC, propose a way forward by outlining standards, and indicate desired roles to be played by various stakeholder groups. Specifically, the documents analysed are as follows:

- UN Group of Experts Report on the DRC of November 2010 (UN Group of Experts, 2010, UN SC S/2010/596), Chapters 8–10
- Section 1502 of the *Dodd–Frank Wall Street Reform and Consumer Protection Act* (US Congress, 2010), including the related US Strategy to Address the Linkages between Human Rights Abuses, Armed Groups, Mining of Conflict Minerals and Commercial products (US Secretary of State and USAID, 2011)
- *OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-affected and High-risk Areas* (OECD, 2011)
- *ICGLR Regional Certification Mechanism* manual (ICGLR, 2011b)

Discourse analysis was used to interrogate these policy documents. Multiple types of discourse analysis have been used to examine political documents (Glynos et al., 2009; Jorgensen and Phillips, 2002). Eminent examples include critical discourse analysis (Fairclough, 1995), which focuses on the role of power and social structure in restricting people's free choice of discursive behaviour, and political discourse theory, which was developed by Laclau and Mouffe (1985) to examine how discourse historically evolves and delimits social action. This study used a more recent branch of policy discourse analysis—interpretive policy analysis (IPA) (Fischer, 2003; Hajer and Wagenaar, 2003; Yanow, 2000). IPA emphasises the importance of interpretation and value, aiming to understand the 'production of meaning' in policy and how this meaning becomes communicated through discourse (Yanow, 2000). IPA is particularly relevant for the present study, which examines a recent policy domain that has produced many initiatives by different parties and stakeholders.

IPA was developed as a response to mainstream positivist forms of policy evaluation

of the 1960s and 1970s, which perceived social ‘problems’ as readily identifiable and objective in nature and assumed that governments were there to *solve* or at least *react* to those problems (Bacchi, 2009). These positivist approaches attributed non-achievement of policy goals and unintended consequences to errors in the policy programme, its instruments or its implementation. IPA, in contrast, questions the discourse of the ‘policy problem’ and thus looks at how the policy problem is *framed* (Bacchi, 2009; Verloo, 2005; Yanow, 2000). A frame gives meaning to reality and shapes how it is understood (Verloo, 2005: 20). Loosely combining Bacchi’s (2009) methodological focus on problem framing and Verloo’s (2005) focus on attributed roles in such problem framing, the present analysis focuses on the ‘framing’ of the policy problem through the interrogation of the policy documents on three questions:

1. How is the problem represented? How do the documents ‘see’ the cause of the problem, and why is it a problem? Who has contributed to the problem, and who is affected?
2. What solution follows from this problematisation? What needs to be done and why? Which objectives are incorporated in this solution, and how are those objectives prioritised?
3. What is the proposed plan of action to achieve the policy objectives? Which instruments are suggested, and who are the problem solvers?

In addition to the discourse analysis of the four policy documents, this chapter draws on empirical research concerning governance and the reforms in the artisanal mining sector in Katanga province as conducted for the rest of this dissertation. This makes some of the observations specific to this province.

4.3 Findings

4.3.1 What is the problem, who causes it and who are the victims?

All of the examined policies highlight the problematic link between the continuing conflict in eastern DRC and the country’s extractive industry. Coordination and interaction between the various policy-making processes have resulted in alignment and reinforced the policy makers’ representation of the policy problem.

All of the documents maintain that armed group involvement in the eastern Congolese mining sector is detrimental to peace because the exploitation of conflict minerals provides armed groups with the financial means to finance their war efforts. The documents also stress that the generation of financial means by armed groups has negative consequences for the security situation and leads to serious human rights abuses, including sexual violence (OECD, 2011; US Congress, 2010: 838) and the proliferation of small arms and light weapons (ICGLR, 2011b: 2; UN Group of Experts, 2010: 85).

This link between conflict and natural resources, so central in conflict-mineral policy, has been criticised by multiple authors, who have argued that the policies overestimate the

role of natural resources in the Congolese conflict. The UN Integrated Bureau, for example, estimated in 2011 that only 8% of all conflicts in the DRC were related to access to natural resources (Autesserre, 2012: 10), although this estimate was contested by critics in the years after its publication. Others have argued that the militarised mineral trade is a symptom of the conflict and an ill-functioning state rather than the cause of these things (Seay, 2012: 17). In the view of multiple scholars, the cause of Congo's conflict is to be found instead in a complex range of factors such as access to land, migration issues and contestation over traditional power (Nest, 2006). Although presenting the mineral sector as the financial motor of the Congolese conflict might be accurate, it is also a highly selective representation of reality. Armed groups also derive income from other sources, including illegal timber and charcoal production in South Kivu; revenues collected at roadblocks (Seay, 2012: 19); and poaching, fishing and controlling bush meat markets around Virunga National Park (UN Group of Experts, 2010: 67–76).

None of the policy documents under study *explicitly* argues that the mineral sector is the 'root cause', 'key driver' or 'main financier' of conflict, as Salter and Mthembu-Salter (2016: 2) have correctly pointed out. However, it is the only driver that receives such large-scale policy attention, and peacebuilding efforts in the DRC may be considered unbalanced as a result. Given the complex nature of conflict in the DRC, the effect of mineral reform on the restoration of peace is an open question. The actual effect is likely to be indirect and may take some time to materialise.

A second bias in the policy documents concerns the extensive emphasis on 'armed criminal networks', whereas the problematic role of 'civil/government criminal networks' is, to varying extents, omitted. This emphasis on armed groups calls attention to the fact that the representation of the problem in conflict-mineral policy is based on characteristics of Congo's conflict-ridden provinces of Orientale (Ituri) and North and South Kivu, which are not representative of other Congolese provinces. In Maniema and the former Katanga, for example, mineral extraction and trade are much less militarised. Most mining communities in these regions are confronted with extortive taxation practices and mine pit expropriations by state officials, rather than issues of militarisation. Throughout the eastern and southern provinces, it is not only the personal economic interests of high-ranking *Forces Armées du République Démocratique du Congo* (FARDC) commanders that seriously hinder the mining communities' ability to benefit from the sector (UN Group of Experts, 2010: 75–76). Additionally, former and current ministers, governors and civil servants of mining services such as *Service d'Assistance et d'Encadrement de Small-Scale and Artisanal Mining* (SAESSCAM) are engaged to a significant extent in extortion or facilitating mineral smuggling (UN Group of Experts, 2010: 73) or are allegedly involved in owning mineral cooperatives or holding shares in large mineral buying houses. This dubious role played by Congolese high officials renders access to mineral trade and exploitation subject to political power struggles. The conflicts of interest deriving from these non-military, civilian criminal networks are not addressed by conflict-mineral policy, and the politicians and high officials implicated are not held accountable. Rather, the policy documents mention the Congolese government as an important stakeholder, not taking into account the negative role of these state actors.

With regard to the question of victims, an interesting and significant variation was found in the policy documents. All of the documents start from the position that the Congolese population is affected by the problem and recognise their suffering from human rights abuses. However, the OECD Guidance and the UN Group of Experts report also draw extensive attention to the fact that (Western) downstream companies risk contributing to or being associated with conflict and human rights abuses. They implicitly view Western consumers as affected, pointing out that consumers should be able to choose conflict-free products.

4.3.2 Varying formulations of the conflict-mineral policy objective

Following from the representation of the problem casting the mining sector as an economic driver of conflict, the policies take a rather economic approach to the peacebuilding problem, searching for its solution in changing the economic value chain of minerals. Conflict funding is to be reduced through the regulation of the mineral trade and the close monitoring of commercial activities in the DRC. The origin of minerals must be determined to enable companies to avoid sourcing from conflict-affected mine sites or from dubious sellers, such as FARDC elements. Creating transparency, sharing information and increasing oversight over the mineral supply chain are at the core of all four policies.

On closer scrutiny, however, it is less clear what common objective is supposed to be met by the policies. First, it is necessary to distinguish how the *policy documents* frame the problem—and consequently conflict minerals—from the *discourse* broadcasted by many NGOs. In contrast to this discourse, conflict-mineral policies do *not* claim to ‘end conflict’ by means of due diligence or transparency, as Salter and Mthembu-Salter (2016: 2) have correctly highlighted. The UN Group of Experts report, for example, is modest about this expectation, stating that:

Due diligence on its own is unlikely to stop conflict in the area’, although it concludes that ‘it will have a positive impact’ (UN Group of Experts, 2010: 86)

Likewise, the Dodd–Frank Act proposes the development of ‘a plan to promote peace and security’, in which monitoring commercial activities is just one part, alongside, for example, ‘stronger governance that can facilitate and improve transparency’ (US Congress, 2010: 840).

However, if ‘ending the conflict’ is not the objective of conflict-mineral policy, then what is? The present analysis uncovered distinct formulations of the policy objective throughout the four policy documents. These vary from ‘reducing human suffering’ and ‘promoting peace’ to ‘avoiding conflict contribution’ and ‘conflict-free sourcing’. The varying formulations of the objective are in line with each other, and all four policies seem to adhere, in one way or another, to these different formulations. However, the four policies differ in their emphasis. Highlighting this difference in emphasis is important, as it may help to explain some of the seeming incongruities in the policy implementation, as the different emphases result in differing policy scopes and hence differing possible impacts. To visualise

these specific emphases, Figure 4.2 depicts the different formulations as a continuum with two extremes, along which the four policy documents are placed.

Figure 4.2. A continuum: varying formulations of the conflict-mineral policy objective



The Dodd–Frank Act and the ICGLR Manual are placed on the left side of the continuum. Even though both documents certainly pay attention to conflict-free sourcing (the Act through its requirement for US stock exchange-listed companies to verify mineral origin and the ICGLR Manual by proposing, among other things, a certification mechanism), their emphasis is on the aim of stopping human suffering and the illicit trafficking of armaments. The Act, for example, explicitly mentions the ‘extreme levels of violence in the Democratic Republic of the Congo, particularly sexual- and gender-based violence, and the contribution to an emergency humanitarian situation therein’ (US Congress, 2010: 838). The ICGLR Manual highlights:

The negative impact of conflict on regional stability’ and how ‘the trade in designated minerals can be directly linked to the illicit traffic in, and proliferation of [...] small arms and light weapons’ (ICGLR, 2011a: 2)

In contrast, the OECD Guidance and the UN Group of Experts report are placed on the right-hand side. Although the UN Group of Experts report very extensively discusses the human suffering of the population in Congo’s conflict-ridden provinces, the focus of both this report and the OECD Guidance lies on conflict-free sourcing and preventing the contribution to conflict. The OECD document is oriented towards ‘the importance of responsible sourcing’ and the need to avoid ‘contributing to or being associated with human rights abuses and conflict’ (idem: 12), and the UN Group of Experts report states that avoiding contributing to conflict is important not only for the promotion of peace, but also to avoid ‘the risk of being considered for sanction’ (UN Group of Experts, 2010: 84).

Although the continuum helps us to better understand the different policies’ foci, it is not immediately clear what difference this makes in the implementation of the policies. The various formulations are clearly in line with each other, and one could argue that one follows from the other: Contribution to conflict should be avoided *in order to* promote peace and reduce human suffering. However, the different emphases of the policies do matter, especially when analysed in conjunction with how the policies speak of the solutions and primarily address different affected parties. Portraying the formulations on a continuum highlights an important issue. Most importantly, it clarifies that it is difficult, if not impossible, to say what these policies as a whole⁷⁶ hold as a priority. Findings discussed later

⁷⁶ These policies are considered ‘as a whole’ here, as, at this point in time, it has become impossible, after six years of joint implementation, to disentangle them and treat them separately in terms of results or effects.

in this chapter indicate that the idea of giving buyers a clear conscience and allowing multinational firms to avoid bad publicity may have received more prominence than has contributing to the situation on the ground in the DRC.

4.3.3 How will the objectives be achieved?

Following from the proposed solution, which highlights the need to reduce conflict funding, the course of action proposed by the policies revolves around international requirements for companies to exercise due diligence throughout their mineral supply chains. In this process, a large role is given to the private sector, and the Congolese state is expected to provide oversight.

Together, the reform policies should enable companies to source conflict-free minerals. Traceability enables companies to verify the origin of their minerals, and the iTSCi chain of custody tracking is a good example that helps companies to map their supply chains and to collect and disclose relevant information necessary to comply with international due diligence standards. In addition, the certification of mine sites, export lots and exporters enabled by the ICGLR Regional Certification Mechanism ensures that companies source from conflict-free mine sites and from suppliers who are not engaged in conflict or human rights abuses. The ICGLR's Regional Mineral Tracking Database and Regional Database of (certified) Exporters (ICGLR, 2011a) provide ways to share and publicly disclose information on regional mineral flows and actors, facilitating the inspection of supply chain data by independent third-party auditors.

However, this process of enhancing transparency takes a narrow approach. It singles out one element of the mining sector, namely commercial transactions within the mineral supply chain, leaving out other important elements of the sector: local mining governance, access provision to mineral exploitation and trade, and the levying of taxes on mining and trade activities. Although the transparency mechanisms are impressive, they do not reach into these other aspects of the sector. Hence, statements such as the one made in the OECD evaluation report of 2012 ('The iTSCi project has considerably enhanced transparency and good governance in the 3T mineral sector') tend to overextend expectations of these transparency achievements. Achievements in the supply chain should not be mistaken for advances in transparency throughout the sector as a whole.

Although the focus on transparent value chains sounds positive, there is little consideration of the fact that such a reordering of artisanal mineral supply chains is not a neutral process (Diemel, Forthcoming-b). This process demands that mine sites be listed and subdivided, demarcated and assigned to appropriate license holders. It demands that supply chain actors be identifiable, preferably by their full name, government registration number and address (ICGLR, 2011b: Appendix 4b). Thus, it can only work with registered, formal actors using payments that are 'preferably routed through official banking channels' (idem). Most artisanal miners and small-scale traders (*negociants*) who formerly worked in the scattered and informal sector do not fit into this highly organised and rigid supply chain model. Consequently, the demand for oversight and governability leads to the exclusion of many of those actors from the sector, or at the least a deterioration of their position.

4.3.4 Who is responsible for the implementation?

The policies ascribe a large role to commercial actors, who must exercise due diligence in their own supply chains. Importers and processors of 3T minerals and large-scale buyers downstream in the mineral supply chain have been made responsible for setting up and financing the reform mechanisms. The iTSCi traceability scheme was developed as a joint initiative by the tin industry, and a large part of the funding for the implementation of the scheme in Katanga was provided by Mining Mineral Resources, a large-scale Indian mineral buying company (Diemel and Cuvelier, 2015).

Congolese state authorities have been made responsible for monitoring and providing oversight over mineral extraction and cross-border trade. This requires a permanent presence of public mining service agents in close proximity to the mine sites and mineral depots. Their tasks include the administration of the mineral extraction, trade and export volumes, as well as verifying that mineral loads and associated actors are in compliance with the international standards (ICGLR, 2011b: Appendix 4b). State mining authorities are expected ‘to inspect all mine sites within national boundaries’, decide upon the conflict status of each of these mines, maintain a mine site database and issue export certificates (ICGLR, 2011b). To fulfil these tasks, the Dodd–Frank Act and the related US strategy highlight the need to develop ‘stronger governance and economic institutions’ (US Congress, 2010: 840) and propose ‘increas[ing] the presence of mining authorities in mining sites and along trade routes’ (US Secretary of State and USAID, 2011: 2).

The policy documents treat the Congolese government as a legitimate and capable actor playing a significant role in providing a solution to the problematic link between natural resources and conflict. However, this stands in sharp contrast with the recognition of state actors as part of the conflict-minerals problem. The central state has installed and extended local government agencies such as SAESSCAM to execute traceability schemes, but it does not sufficiently support these offices financially (Diemel, Forthcoming-b). The local offices function autonomously, with civil servants relying on local formal or informal taxes to support themselves. According to Autesserre (2012: 219) ‘*Congolese state officials are responsible for the largest part of all human rights violations.*’

Our fieldwork⁷⁷ in the mine sites of central Katanga revealed the involvement of local civil servants, the Mining Police and intelligence service agents in illegal taxation practices and the expropriation of productive mine pits under the pretext of safety risks.

Not taking the *de facto* functioning of the Congolese state authorities sufficiently into account, the policies expect them to play a positive role in mining sector reform. While extending state authority might improve the mineral trade administration, in a country plagued with a malfunctioning state, this approach risks enabling state authorities to become the new predators in artisanal mining areas.

To compensate for the lack of capable state involvement, private mineral buyers also take on a role in assisting the Ministry of Mines in the implementation of traceability and certification schemes at mine sites. At a significant number of the mine sites, these private actors pay civil servants’ salaries (*primes de motivation*), provide motorbikes to local state

⁷⁷ 17 months of qualitative research undertaken from March 2013 to April 2016

offices and organise the transport of the civil servants—by helicopter or car—to the mine sites. Additionally, these private companies play an active role in the functioning of the system, for example through their participation in local⁷⁸ and provincial⁷⁹ multi-stakeholder meetings on traceability and certification issues, where information exchange and communication takes place between state authorities, private industry actors, local communities and civil society.

One could argue that it is only natural for the private sector to take up such a central role in the development and financing of due diligence, as it is their responsibility ‘to do no harm’ and to prove their responsible sourcing practices to the international community and to their consumers. However, in a country characterised by a malfunctioning public administration (Trefon, 2009), where basic services are usually provided by non-state actors such as churches, international NGOs (Bwimana, 2017), rebel groups (Meagher, 2012; Raeymaekers, 2007) or transnational mining companies (Hönke, 2009; Hönke and Thauer, 2014), the private sector playing such an extensive role risks further privatising mining governance.

Remarkably, this prominent role is not allocated to the private sector as a whole; rather, it seems to be geared more towards large-scale mineral buyers (*comptoirs*) than towards ASM miners or traders. International requirements and the need for traceability requires mine sites to be listed, demarcated and attributed to a single appropriate license holder; supply chain actors to be clearly identifiable, preferably with full name, government registration number and address (ICGLR, 2011b: Appendix 4b); and mineral trade to be concluded with ‘non-cash purchases’ and ‘preferably routed through official banking channels’ (*idem*). These requirements all indicate that the creation of a ‘clear and transparent’ supply chain is not a neutral process. It favours large-scale well-organised actors such as *comptoirs* and cooperatives with access to financial infrastructure and international debates, over small-scale actors such as artisanal miners and *negociants*, who have seen their trading position become restricted and their negotiation position deteriorate since the arrival of these new actors (Diemel, Forthcoming-a).

This demand for oversight risks paying too little attention to the dispersed nature of artisanal mining and excluding those actors who are not able to adjust quickly enough to these emerging international standards. Taking in mind an artisanal mine site, where hundreds of artisanal miners without fixed addresses or ID cards extract minerals, one can easily see how these actors do not fit particularly well into this new, highly organised supply chain model. From a due diligence point of view it makes sense to put larger private actors at the centre of interventions aiming for clearer supply chains.

However, what stands out in the documents reviewed is the general absence of mention of this large group of ASM operators, which might make up over 90% of all supply chain actors. This group is only mentioned in those cases where they are represented as marginalised actors, victimised either by the problematic link between mineral trade and

⁷⁸ *Comité Local de Suivi*, Local Monitoring Committees

⁷⁹ *Comité de Pilotage Provincial*, Provincial Steering Committees

conflict financing or by the harsh working conditions and low revenues of the artisanal mining sector.

In line with this trend, policy makers at both the national and the international levels seem to believe that the gradual eradication of artisanal mining is the solution (US Secretary of State and USAID, 2011: 2). The US strategy linked to the Dodd–Frank Act, for instance, proposes to get artisanal miners out of mining activities and into alternative livelihoods to reduce their vulnerability. The idea of creating alternative economic activities for those people is understandable. However, the reality is that two million small-scale miners (World Bank, 2008)—approximately 14%–16% of the Congolese population—depend heavily on artisanal mining for their survival.

Pushing towards the disappearance of the artisanal sector while neither the malfunctioning Congolese state nor the financially overburdened donor community is likely capable of creating alternative livelihoods for this group of actors risks leaving a large part of the artisanal miners and their dependents without a way to fend for themselves.

4.4 Analysis and conclusion

A review of the literature on the reforms of the DRC's ASM sector highlighted three issues of concern: 1) the reforms' insecure and variable consequences for conflict; 2) the continuous effects of the reforms on livelihoods; and 3) the pace and scope of the reforms. This led to the question of how to label these concerns: Do they point to unintended effects and misdirected implementation, or are these issues largely *embedded* in the design of the policy? And what do these concerns tell us about the nature of the reforms? This chapter aimed to answer these questions through a discourse analysis of four central conflict-mineral policy documents.

Although there are some inconsistencies across the policy documents, the findings indicated that these documents seem to problematise the issue of 'conflict minerals' in a rather uniform way, noting that 'revenues from mineral trade seem to fuel violent conflict'. In proposing a solution, the policy documents also unilaterally focus on increasing transparency and oversight over the economic value chain of minerals. The main finding concerns the ambiguous formulations of the objective identified in the reforms. It appears difficult, if not impossible, to say what these policies as a whole hold as a priority, with objectives ranging from 'promoting peacebuilding and reducing human suffering' to 'avoiding contribution to conflict and hence sourcing minerals in a conflict-free manner'. The policy documents move between these two extremes with differing emphasis. The Dodd–Frank Act and the ICGLR Manual seem to formulate their objectives more in terms of 'reducing human suffering', whereas the formulation of objectives in the UN Group of Experts report and the OECD Guidance focus on conflict-free sourcing and exercising due diligence. These differences in emphasis are, to a significant extent, caused by the different audiences the policy documents address. Additionally, one could convincingly argue that the distinct formulations of the objective should be viewed as aligned: One has to source responsibly *in order to* promote peacebuilding and reduce human suffering.

However, the significance of this ambiguity becomes clear when it is combined with the various ways the policies frame the problem of 'conflict minerals', and especially with

how these documents define the affected parties. Some of the analysed documents view the Congolese population as the party that is primarily affected by conflict minerals, whereas the OECD Guidance clearly adds international companies and consumers to the group of affected parties because of the possible conflict associations of their choices and purchases, even if they intend to avoid conflict. There is an additional reason for the objectives to be less aligned than is often presumed. In theory, sourcing responsibly might lead to the promotion of peacebuilding and reduced human suffering at the hands of armed groups, but scholarly work over the last six years points out that this trajectory is not automatic.

Putting the ambiguity of these objectives into sharp relief, it could be asked whether the idea of giving buyers a clear conscience and developing a traceable and conflict-free product has received more prominence than has contributing to improving the situation of much of the Congolese population. As the policies can thus be ‘read’ in different ways, this may also explain the different interpretations found in the literature about the reforms, where some authors consider the reforms effective and others point primarily to negative effects.

Although all policies express a combination of the various formulations of the objective, many of the points raised in this analysis and review of past work indicate that the evolving practice is especially compatible with the objective of seeking assurance that minerals in international markets are conflict-free, while having a negative effect on the objective of reducing human suffering:

- The tendency for the reforms to be implemented in areas that are free of conflict, where it is easier to assure that minerals are conflict-free, yet not where implementation is the most needed in terms of human suffering;
- The narrow focus of the reforms on the transparency of the mineral value chain, rather than on the governance of the mineral sector as a whole which would potentially have a larger positive effect on the mining communities;
- The large role accorded to the Congolese state as an important part of the solution, without considering the dubious role played by many civil servants and high state officials, and without recognising that an extension of the Congolese state apparatus risks new forms of predation for the mining communities; and
- The lack of systematic attention to the deterioration of small-scale artisanal operators’ negotiation position and access to free mineral trade, as international requirements for clearer supply chains have proven to be preferential to large-scale actors such as *comptoirs* and cooperatives.

The ambiguity of the policy objectives revealed by the present discourse analysis urges a revisiting of the priorities of the policies. Although the policies set out to organise transparency in order to reduce suffering, the findings suggest that exercising due diligence in avoiding the funding of conflict has become a goal in itself. If the reforms have indeed become primarily a process geared towards guaranteeing international companies and consumers access to minerals that have been sourced in a conflict-free manner, this raises the

pertinent question of what this means for the objective of promoting peacebuilding and reducing human suffering, which was so central to the advocacy campaigns of the early 2000s that spurred the reforms. This should be a central question in evaluating the intended and unintended consequences of the reforms.

Photo: Jose, A. Diemel, January 2018, a man transports bags of cobalt to a nearby mining village, in Kambove district, Haut-Katanga, DRC



Uneven distribution of conflict-mineral policy implementation

There exists a widespread assumption that many of the warring parties in eastern DRC finance part of their war efforts through the sale of mineral ores originating from the areas under their control. As a result, recent years have witnessed the launch of various national and international initiatives to make the Congolese artisanal mining sector more transparent and to prevent so-called 'conflict minerals' from entering the legitimate international market. A strikingly paradoxical feature of these initiatives is that, in terms of the level of implementation, the conflict-ridden Kivu provinces are lagging far behind the relatively stable province of Katanga. This chapter argues that the concentration of conflict-mineral policy implementation in Katanga can, to a very large extent, be attributed to the role of the 'Katanga policy network', a group of highly influential public and private actors closely working together towards the reform of the province's artisanal and small-scale mining sector. In line with the dialectical approach to policy networks advocated by Marsh and Smith, the chapter examines three types of interactive relationships: between the structure of the Katangese policy network and the agents operating within them, between the Katangese policy network and the context in which it operates, and between the Katangese policy network and the policy outcome.

This chapter was presented at the 21st panel during the Fifth European Conference on African Studies Conference (ECAS) (Lisbon, Portugal, June 2013).

It has been published as a journal article as Diemel, J.A. and J. Cuvelier (2015) Explaining the uneven distribution of conflict mineral policy implementation in the Democratic Republic of the Congo. *Resources Policy* 46 (2): 151–160.

5.1 Introduction

The mining sector in eastern Congo has a pivotal role to play in the process of post-conflict reconstruction, as hundreds of thousands of people work in the artisanal mines to secure their livelihoods. One major problem facing the artisanal mining sector, however, is that, in the opinion of many observers of the security situation in Africa's Great Lakes region, there is a strong link between the extraction and trade of tin (cassiterite), tantalum (coltan) and tungsten (wolframite), known as '3T' minerals,⁸⁰ and the continuation of armed conflict in eastern Democratic Republic of the Congo (DRC). It is widely assumed that the warring parties in eastern DRC finance their violent activities from the sale of so-called 'conflict minerals', hence prolonging and intensifying Congo's protracted crisis. International NGO awareness campaigns⁸¹ have linked Western consumer products such as cell phones and laptops to the Congolese conflict, pressuring manufacturers of electronic devices to avoid the use of 3T minerals originating from eastern Congo's conflict-ridden provinces, especially North and South Kivu (Nest, 2011: 12). These campaigns have resulted in the development of international guidelines such as the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas in 2010, and the promulgation of the US Dodd–Frank Act in July of the same year (US Securities and Exchange Commission, 2010).⁸² Additionally, various responsible sourcing initiatives have been designed to make the Congolese 3T mineral trade more transparent and to prevent conflict minerals from reaching the international market. One specific chain of custody tracking system, the ITRI⁸³ tin supply chain initiative (iTSCi), makes it possible to determine the origin of minerals and to track and trace them along transportation routes.⁸⁴ As iTSCi is the most advanced and extensively implemented of the responsible sourcing initiatives, it will be at the centre of this analysis.

It is important to note that the conflict-mineral phenomenon in the Great Lakes region is no longer a virgin field of study. Apart from attracting the attention of policy makers and civil society groups, it has also aroused the interest of academics. Several recent publications on the conflict-mineral phenomenon have examined the effects of the implementation of responsible sourcing initiatives such as the iTSCi traceability initiative. Remarkably, this body of literature mostly treats the negative side of the implementation of responsible sourcing initiatives, including their unintended consequences at the local level (Autesserre,

⁸⁰ The abbreviation 3T refers to three types of minerals extracted in the DRC: tin (cassiterite), tantalum (coltan) and tungsten (wolframite).

⁸¹ The most vocal campaigning organisations have been Global Witness and the Enough Project.

⁸² Section 1502 of the Dodd–Frank Act requires United States stock market-listed electronics manufacturers to verify the origin of the minerals they use in their production process. Electronics manufacturers sourcing 3T minerals from the DRC or adjoining countries have to exercise due diligence on both the mineral source and the chain of custody, in order to avoid financing armed groups. Moreover, from 31 May 2014 onwards, they have been obligated to report on their due diligence measures to the Securities and Exchange Commission and to cooperate with related independent audits.

⁸³ ITRI defends the interests of the tin industry. It is largely funded by tin producers and smelters (for more information, see: www.itri.co.uk, accessed on 27 November 2013).

⁸⁴ The iTSCi system provides a means of determining the origin of the minerals and documenting their trading chain by tagging 3T mineral bags at the levels of mine sites, trading posts and mineral depots. The tag contains a barcode, which holds information about the origin, transport route and actors involved in the extraction, trade and transport of these minerals.

2012; Bashwira et al., 2013; Geenen, 2012; Matthysen and Zaragoza Montejano, 2013; Seay, 2012) and the consequences and enormous costs of the new legislative framework for companies using Congolese minerals in their products (Griffin et al., 2013; Jeffrey, 2012; Narine, 2013; Ochoa and Keenan, 2011; Raj, 2011). This chapter aims to contribute to the debate on conflict minerals and the reform of Congo's artisanal mining sector by focusing on one aspect of policy implementation that has received scant attention so far, namely its spatial dimension.

The importance of this spatial dimension becomes clear when one takes a closer look at the implementation of the iTSCi policy initiative in different parts of the DRC. Close observation reveals that, compared with other provinces, Katanga has witnessed much more progress. The iTSCi policy initiative was implemented in the Katanga province in 2011, rapidly extending from several initial sites to cover the entire 3T mineral sector of the province⁸⁵ (iTSCi, 2011, 2012a). The implementation in other 3T mining provinces in the DRC is seriously lagging behind. In the Maniema province, where the iTSCi policy initiative only started near the end of 2012, it covers only three of five mining territories (iTSCi, 2012b). Meanwhile, iTSCi leaves out most of North and South Kivu, where only a relatively limited number of mines are included. In South Kivu, only two mining areas⁸⁶ have been covered since October 2012 and July 2014 (iTSCi, 2013, 2014b), and iTSCi expanded into a single mining area⁸⁷ in North Kivu in the beginning of 2014 (iTSCi, 2014a; Radio Okapi, 2014). This is quite paradoxical, as one would expect implementation to occur mainly in the Kivu provinces where conflict is at its worst and where responsible sourcing initiatives could indeed contribute to putting an end to the financing of Congo's protracted armed conflict. However, apparently, the presence of conflict-minerals production and trade are not the primary factors determining the location of conflict-mineral policy implementation. Possibly, conflict-mineral policy has not become implemented where it is most needed—where the problem of conflict minerals is the most prominent—but rather where the policy is able to demonstrate the highest goals achieved.

Three obvious explanations come to mind when one tries to account for the uneven spatial distribution of the iTSCi policy initiative across the DRC. First, there is the presidential mining ban,⁸⁸ which prohibited all artisanal 3T mining activities in the provinces of North and South Kivu and Maniema from September 2010 to March 2011 (Ministry of Mines DR Congo, 2010). This mining ban forced the iTSCi policy initiative to close down its pilot project in South Kivu in 2010 (iTSCi, 2011) and to shift its focus to the Katanga province. Second, the limited financial means for the implementation of the iTSCi policy initiative forms an important restriction on the extension of the initiative to other provinces. On several occasions, iTSCi officials, donors and high-level Congolese government officials have stated that funding is a major source of concern and is likely to remain so for the near

⁸⁵ Except for newer mine sites, as it takes some time to include them in the traceability system

⁸⁶ Mining areas called Nyabibwe and Uvira-Walungu

⁸⁷ A mining area called Rubaya

⁸⁸ In September 2010, Joseph Kabila, the Congolese President, imposed a six-month mining ban on all artisanal mining activities in what appeared to be an attempt to put an end to the involvement of armed groups in the Congolese mining sector (see Geenen, 2012).

future (iTSCi, 2011).⁸⁹ Finally, the extensive Congolese artisanal 3T mining sector complicates matters. According to one well-informed source, only a fraction of all of the 1800–2000 3T mines⁹⁰ in the country are currently covered by the iTSCi traceability scheme.⁹¹ Looking at the implementation and inspection costs of this scheme, one might even start to wonder, as one international donor put it during an interview, ‘whether it is even desirable to include all Congolese 3T mines’.⁹²

This chapter argues that there are additional factors to explain the uneven spatial distribution of policy implementation in the DRC. The chapter shows that, to achieve a more thorough understanding of the spatial outcomes of policy (i.e. the concentration of iTSCi implementation in Katanga), one has to look beyond the obvious explanations mentioned above. More attention needs to be paid to the role played by different stakeholder groups in the Congolese 3T mining sector, their relationships, the networks of which they are part, and their agency in influencing and negotiating the outcomes of policy. This chapter examines these additional explanatory factors through an in-depth study of the ‘Katanga policy network’, a network of influential private and public actors involved in the reform of Katanga’s 3T mining sector governance from 2009 to 2011—actors who were instrumental in making Katanga’s implementation of the iTSCi traceability scheme much more advanced than that of other Congolese provinces. This analysis is inspired by the literature on policy networks and, more specifically, by Marsh and Smith’s dialectical model for explaining the impact of policy networks on policy outcomes. The findings are based on several months of fieldwork in the Congolese province of Katanga from 2013 to the beginning of 2015.^{93,94}

5.2 The role of policy networks in explaining policy outcomes

The uneven implementation of interventions across space—with some areas benefiting from all of the financial and human resources available while others are completely bypassed—is not a feature specific to policy implementation. It can also be observed in private sector investment patterns (Ferguson, 2005), humanitarian aid interventions (Dollar and Levin, 2004; Koch and Ruben, 2009; Marysse et al., 2007; Price, 1999) and in the presence of state institutions (Boone, 2012; O’Donnell, 1993; Roth, 2003). Several explanatory frameworks

⁸⁹ Interviews with international donors and high-level Congolese government officials, Kinshasa, April 2013

⁹⁰ There is still discussion on the current number of 3T mines in Katanga and the DRC as a whole. Up-to-date state service figures for North Kivu are not available. According to ITRI, there may only be a few hundred 3T mines throughout the country (communication with Kay Nimmo, 7 May 2015).

⁹¹ Estimated by an international donor and Paul Mabolia, Head of the Promines programme and special advisor to the Congolese Ministry of Mines, April 2013

⁹² Interview with international donor to due diligence programmes in the DRC, Kinshasa, April 2013

⁹³ From February to April 2013; March, April and July 2014; and March, April and May 2015, open interviews were conducted with key stakeholders in the 3T conflict-mineral policy implementation arena, including central and provincial government representatives, mining authority officials, policy initiative implementers, private industry actors and mining cooperative representatives. In addition to this, I conducted a series of interviews in Kinshasa and Kolwezi and undertook several field trips to the coltan and cassiterite mines in the Lubudi and Bukama territories.

⁹⁴ The fieldwork conducted for this research was facilitated by the WOTRO Science for Global Development Department of the Netherlands Organization for Scientific Research, who provided generous funding for this research programme.

have been developed to account for this phenomenon, ranging from political geography and economic perspectives (Ferguson, 2005; Hönke, 2009) to historical–sociological explanatory frameworks (Bebbington, 2004; Koch and Ruben, 2009).

This chapter, which aims to explain the striking concentration of policy implementation in Katanga, stays closer to a political perspective and therefore uses the concept of ‘policy network’ to explain this concentration. Since the 1990s, public administration researchers and political scientists have made serious efforts to understand and explain the development of more horizontal forms of governance agreements, including a multitude of public and private actors (e.g. Granovetter, 1985; Jessop, 2004; Pierre and Peters, 2000; Rhodes, 2007; Stoker, 1998). The concept of ‘network analysis’ made its way into this debate through the works of, amongst others, Dowding (1995), Granovetter (1985), Rhodes (1997) and Berry et al. (2004). These scholars aimed to explain the changing relations between state and society by examining the role of actors, their interests and especially their relations (Raab and Kenis, 2007: 187).

According to Börzel’s (1998: 254) basic definition of the concept, a policy network is a ‘set of relatively stable relationships which are of non-hierarchical and interdependent nature linking a variety of actors, who share common interests with regard to a policy and who exchange resources to pursue these shared interests acknowledging that co-operation is the best way to achieve common goals’. The advantage of the study of policy networks is that it offers a deeper and more realistic understanding of policy making and implementation than does the traditional study of political institutions. It breaks away from the longstanding habit of focusing only on what happens in official law-making bodies and decision-making institutions. The policy network approach also draws attention to issues that would otherwise go unnoticed, such as the influence of economic elites on policy and the exclusion of weak and marginalised groups from public decision-making arenas (John, 2004: 139–140).

There are, nevertheless, many different ways of studying policy networks and assessing their role and nature. There appears to be little agreement on the analytical power of the ‘network’ concept and hence on the existence of a well-founded policy network theory explaining the relationship between policy networks and policy outcomes. Some scholars believe that the ‘network’ concept is little more than a metaphorical tool (Dowding, 1995; Raab and Kenis, 2007: 1992), and that policy networks have no proven influence or explanatory power over policy outcomes. This criticism of network theory has been challenged by another group of scholars who claim that policy networks do have the capacity to influence policy and that policy networks are independent explanatory variables for policy outcomes (Marsh and Smith, 2000; Peterson, 2003; Thatcher, 1998; Waarden, 1992). This chapter follows this last group of scholars.

Methodologically speaking, while acknowledging the ability of policy networks and their agents to influence policy outcomes, this chapter does not develop a formal causal model for studying policy networks, as advocated by Dowding (1995). Taking a constructivist stance towards policy networks and their related beliefs, values and appropriated behaviour, this chapter uses qualitative research methods for the data collection and analysis. When using the term ‘policy’, this chapter refers to the set of responsible sourcing initiatives that are currently being implemented in the DRC. As already explained in

the introduction, attention will be focused on iTSCi initiative, which is by far the most advanced and widely implemented of these initiatives.

Furthermore, this chapter focuses on organisations rather than on individuals as participants to the Katanga policy network. Although concentrating on individuals also has its merits,⁹⁵ the chapter uses organisations as the unit of analysis because the breadth of the Katanga policy network and the chapter's scope do not allow for an analysis of the personal interests of individual actors with the same level of detail and precision (see John, 2004: 141).

For the analysis of the Katangese policy network and its role in the concentration of mining reform initiatives in Katanga, the chapter relies on the 'dialectical model' developed by Marsh and Smith (2000). According to Marsh and Smith (2000), a network of policy agents has the capacity to bring about or influence the outcome of policy. However, the authors do not consider this relationship to be linear or one-directional, but emphasise its dialectical nature. A distinction is made between three types of dialectical relationships: between the structure of the network and the agents operating within it, between the network and the context in which it operates, and, finally, between the network and the policy outcome.

Taking these three relationships into consideration has the advantage of recognising the complex interactions within the network, but also between the network and exogenous factors.

- The first dialectical relationship—between the network structure and the different agents operating within the network—attributes explanatory power to both the structure of a network and 'the actions of the agents who operate within the network using their individual "strategies"'. Agents influence both policy outcomes directly and the network they are part of through their interests and preferences; their discursive actions; and their skills, resources and capacities (Marsh and Smith, 2000: 5–6).
- The second dialectical relationship—between the network and the context—pertains to change within the network. Marsh and Smith state that policy networks reflect the exogenous structures of the context of which they are a part and that when these exogenous structures change, the policy network and the resources and strategy options of the network members might change accordingly. The extent and speed of change within the network depends on the ability of the network and its members to mediate or reduce the effect of these changing exogenous structures (*ibid.*: 7–9).
- Finally, concerning the third dialectical relationship, Marsh and Smith argue that, while networks have the capacity to influence policy outcomes, these policy outcomes themselves can also affect the shape of policy networks (*ibid.*: 9). Policy outcomes can affect networks in three ways: by leading to a change in the network's membership or the

⁹⁵ For example, it helps to illustrate the often fragmented nature of organisations, and also makes it possible to investigate the influence of personal agendas and interests on policy decisions.

balance of its resources; by weakening the position of a particular interest; and by affecting the actors—their experiences, strategies and actions.

Although the chapter relies on Marsh and Smith's dialectical approach, it does not discuss all three dialectical relationships to the same extent. The chapter primarily examines the first dialectical relationship (the network structure and the actors' interdependencies). It does so by describing how the concentration of iTSCi implementation in Katanga is a negotiated outcome of a complex policy network process and not simply the sum of various independent actor strategies. The last section will then elaborate on the effect of exogenous factors on the Katanga policy network, with a particular focus on the role of policy outcomes, (i.e. the second and third dialectical relationships).

5.3 How conflict-mineral policy became concentrated in Katanga

It is difficult to pinpoint when exactly the Katangese policy network came into existence, but in all likelihood it was around the end of 2009 or early 2010, when the international community started developing clearer guidelines concerning 3T exploitation and trade in the Great Lakes Region. In 2009–2010, shortly after the iTSCi policy initiative started its first phase in 2009 and its second phase in 2010,⁹⁶ the number of Katanga-based mineral buyers playing a role in the local 3T mineral trade was very limited. Due to the proximity of northern Katanga's 3T mines to the border with South Kivu, a large part of the Katanga's 3T mineral trade was controlled by mineral buyers (*negociants*) working for buying houses (comptoirs) in Bukavu, such as TTT Mining, Olive, Global Minerals Company and Panju⁹⁷ (Iguma Wakenge, 2014; Spittaels, 2010: 16–17). The relatively uncontrolled nature of this cross-border trade between provinces led to what some high provincial government officials described as: *a fraudulent and messy sector, characterised by embezzlement*.⁹⁸

According to a 2010 IPIS report, in the first half of 2009, 181 tons of coltan and 900 tons of cassiterite left the Tanganyika district in North Katanga to be either shipped or flown to the Kivu Provinces. From July to December 2009, 90% of the cassiterite from the Haut-Lomami district in central Katanga was transported to Bukavu without officially being registered (Spittaels, 2010: 16). Most of these exports remained undocumented and passed the provincial border without being taxed.

In the same period, shortly before the introduction of the Dodd–Frank Act and the OECD guidelines in 2010, the International Tin Research Institute (ITRI)⁹⁹ and the

⁹⁶ While the first phase consisted of document collection, the second phase was dedicated to the implementation of the traceability mechanism (communication with Kay Nimmo, 7 May 2015).

⁹⁷ J. Cuvelier's interview with John Kanyoni, Owner of Metachem, Bukavu, 2 April 2014; Interview with Banny Banza, Director of SAESSCAM Katanga, Lubumbashi, 8 July 2014

⁹⁸ Interview with Banny Banza, Director of SAESSCAM Katanga, Lubumbashi, 8 July 2014

⁹⁹ A London-based private sector-led organisation defending the interests of the tin industry. It is largely funded by tin producers and smelters (for more information, see: www.itri.co.uk, accessed on 27 November 2013).

Tantalum–Niobium International Study Centre (TIC)¹⁰⁰ jointly came up with the ITRI Tin Supply Chain Initiative (iTSCi) in 2009. This traceability system had the potential to seriously improve the provincial oversight of the 3T mineral trade by tagging mineral bags at mine site level and at mineral trading sites. More importantly for the Congolese economy as a whole, the iTSCi policy initiative allowed the tin and tantalum industry to stay in the Great Lakes region and significantly reduced the risk of incurring reputational damage.

When, in 2010, the international community increased its pressure on the Kinshasa government to solve the problem of conflict minerals in the eastern part of the country, the latter had no option but to speed up the reform of the artisanal mining sector. Moreover, the serious loss of tax revenues from North and South Kivu during the Presidential mining ban from September 2010 to March 2011 certainly made the central Congolese government more determined to ensure the continuation of ‘conflict-free’ mineral exports from its other provinces.¹⁰¹

For its part, Katanga’s provincial government had its own reasons for supporting the implementation of the iTSCi policy initiative. Katanga’s long history of transnational industrial mining, which dates back to colonial times,¹⁰² has left the province and its government with a business-like mentality and a strong capacity to deal with transnational partners. For the Katangese government, it was important to support the iTSCi policy initiative to uphold Katanga’s reputation as a business-friendly province with more accessible resource deposits and higher levels of security and infrastructural development than other parts of the country.

The provincial government started training SAESSCAM¹⁰³ and *Division des Mines*¹⁰⁴ agents with the help of the US-based NGO PACT as early as the beginning of 2011, preparing them for the rapid implementation of the iTSCi policy initiative. Additionally, the Lubumbashi, the government started looking for reliable partners and organised a provincial meeting in the beginning of 2010, inviting the National Minister of Mines Martin Kabwelulu as well as the then Provincial Minister of Mines Juvenal Kitungwa, the provincial governor Moïse Katumbi and several other key mining actors.¹⁰⁵ Although the number of Katanga-based mining companies and cooperatives interested in participating in the iTSCi initiative turned out to be very limited, the Katangese government managed to form a partnership with

¹⁰⁰ A Belgian non-profit association founded in 1974 defending the interests of industrial actors along the whole tantalum and niobium supply chain (for more information, see: www.tanb.org, accessed on 10 December 2013).

¹⁰¹ Paul Mabolia, Special Adviser to the Ministry at Mines, estimates that the Congolese government suffered a drop in 3T mineral tax revenues from USD 6 million before September 2010 to USD 0.72 million after the introduction of the presidential mining ban.

¹⁰² The industrial exploitation of Katanga’s copper and cobalt reserves was initiated by the Belgian company *Union Minière du Haut-Katanga* at the beginning of the twentieth century (see Rubbers, 2009).

¹⁰³ SAESSCAM: The *Service d’Assistance et d’Encadrement du Small Scale Mining* is a Congolese mining authority responsible for supporting artisanal miners and for the development of small-scale mining. SAESSCAM plays an official role in the iTSCi initiative, weighing and tagging mineral bags and documenting mineral production and trade at the mine site level.

¹⁰⁴ *Division des Mines* is Congo’s mining administration service. Like SAESSCAM, *Division des Mines* plays an official role in the iTSCi initiative. It is co-responsible for weighing and tagging mineral bags and documenting mineral production at the mine site and mineral depot levels. *Division des Mines* is mainly responsible for the same tasks at the trading house level.

¹⁰⁵ Interview with Serge Mulumba, Head of the CDMC cooperative, Lubumbashi, 15–17 April 2014; Interview with Banny Banza, Director of SAESSCAM Katanga, Lubumbashi, 8 July 2014

the Indian mining company Mining Mineral Resources (MMR) and the mining cooperative *Cooperative des Artisansaux Minières du Congo* (CDMC), who had both closely followed the development of international due diligence standards.¹⁰⁶

Both MMR and CDMC, looking to extend their sourcing opportunities and feeling encouraged by iTSCI's help to protect their international reputation as responsible mineral producers and buyers, were motivated to support the implementation of the iTSCI policy initiative in Katanga. A Katangese 'coalition of the willing' to respond to the international community's demand for responsible mineral sourcing was thus quickly assembled. It included the tin industry's ITRI, the Kinshasa government, 3T mineral producers MMR and CDMC, and the international US-based 3T mineral buyer AVX Corporation, and KEMET, with whom MMR has signed long-term contracts. Together, they make up the 'Katanga policy network'.

5.3.1 The need for continuous 3T mineral trade in 'conflict-free' Katanga

At the time of its formation, the members of the Katanga policy network already formed a relatively tight network, characterised by a high degree of consensus. Although they all had different interests in joining the network and facilitating the implementation of the iTSCI traceability scheme, they also clearly shared common values and beliefs concerning the exploitation and trade of 3T minerals and the implementation of conflict-minerals policy in the province. These values, beliefs and related forms of behaviour would inform the decisions and strategies of the actors within the Katanga policy network and contribute to the rapid and extensive implementation of the iTSCI policy initiative (at least when compared with the situation in the Kivus).

The network actors all found it very important to guarantee the continuation of Katanga's 3T mineral production and trade by respecting international standards. They wanted to promote a legal trade, which turned out to mainly benefit Katanga and not its neighbouring provinces. Additionally, the network became characterised by its highly exclusive membership, which was restricted to those sharing the aforementioned beliefs and which excluded other actors, such as 3T mineral traders from South Kivu.

The belief that Katanga's trade in 3T minerals must continue has become institutionalised in a discourse used by the members of the Katanga policy network throughout the province involving the claim that Katanga is different from other Congolese provinces and is genuinely conflict-free. In Katanga, high-level officials at the Katangese public mining services, *Division des Mines* and SAESSCAM, underline the existence of a sharp distinction between the war-torn provinces of North and South Kivu and their own 'peaceful' and 'stable' province. In an interview, the head of the Provincial Mining Division

¹⁰⁶ Interview with Serge Mulumba, Head of the CDMC cooperative, Lubumbashi, 15–17 April 2014; Interview with Banny Banza, Director of SAESSCAM Katanga, Lubumbashi, 8 July 2014; Interview with Gregory Mthembu-Salter, former UN Group of Experts Member-consultant, Skype conference, 16 July 2014; Interview with Shaida Abdul Karim, Head of Sustainable Operations, MMR, Lubumbashi, 7 July 2014

in Lubumbashi explained that ‘conflict minerals are merely a problem of faraway eastern provinces and do not concern Katanga’.¹⁰⁷

Katanga’s governor, Moïse Katumbi, has also done his best to stress the province’s peaceful character, claiming in an interview with Bloomberg in June 2011 that Katanga may be the future alternative supplier of 3T minerals, adding that ‘In Katanga, there is no war, and there is no military in our mines’.¹⁰⁸ In his speech to the provincial government on 3 July 2013, the governor emphasised that ‘All levels of Katanga’s population co-exist in perfect harmony, and Katanga has become a model for the sub-region’.¹⁰⁹

The ‘conflict-free Katanga’ discourse is also used by the electronics industry to legitimise the continuation of their mining operations in parts of the Congo. Capacitor manufacturer KEMET, for example, prides itself on sourcing minerals from the ‘mining community of Kisengo in the conflict-free Katanga province of the DRC’ (KEMET, 2012, 2013). Speaking in a similar vein, in an interview with Metal-Pages, Bill Millman, technical and quality director at AVX’s smelter, referred to Katanga as a ‘conflict-free zone’ (Metal-Pages, 2012).

The use of this ‘conflict-free Katanga’ discourse is strikingly at odds with the province’s volatile security situation over the last several years. Since 2011, there has been an increase of incidents with Mayi–Mayi groups in central and northern Katanga, where the province’s main coltan and tin reserves are situated, and there were also attacks on Lubumbashi’s airport in 2012 (UN Group of Experts, 2012: Annex 75: 198) and even an invasion of the city centre of the Katangese capital in March 2013. This instability has seriously affected the operation of the iTSCi policy initiative around Mitwaba, in central Katanga, where the initiative had to suspend its tagging activities from April to June 2012¹¹⁰ (Channel Research, 2012) and again in 2013 and 2014.¹¹¹

In the meantime, the security situation at 3T and gold mine sites throughout North and South Kivu has not remained unchanged. Even though it is still difficult to obtain reliable data on the general changes concerning security in Kivu’s tin and tantalum mine sites, some research institutes have made careful estimations based on the data that do exist. For example, IPIS, a Belgian research institute that has been mapping the relationship between conflict and 3T and gold mining in eastern DRC since 2010, indicated in April 2015 that militarisation of 3T and gold mine sites in the Kivus seemed to be higher in 2014 than in 2010. Militarisation in North Kivu increased from 39% to 79%, whereas a small increase from 56% to 58% was measured in South Kivu (IPIS, 2015: 20–23). Moreover, the report highlighted that militarisation of mine sites has shifted from 3T mines to gold mines in the same region and that the presence of armed actors (including elements of the Congolese army) remained dynamic, with various armed actors replacing each other’s presence in the mine sites in recent years (idem).¹¹²

¹⁰⁷ Interview with the chief officer, *Division de Mines Katanga*, Lubumbashi, 27 February 2013

¹⁰⁸ Governor Moïse Katumbi during an interview with Bloomberg in June 2011 (Kavanagh, 2011)

¹⁰⁹ Governor Moïse Katumbi during a speech recorded by 7sur7 on 3 July 2013

¹¹⁰ Interview with Shaida Abdul Karim, Head of Sustainable Operations, MMR, Lubumbashi, 7 July 2014

¹¹¹ Interview with Shaida Abdul Karim, Head of Sustainable Operations, MMR, Lubumbashi, September 2014

¹¹² For more detailed information on militarisation and mining in eastern DRC, see

<http://www.ipisresearch.be/mapping/webmapping/drongo/v2/>

5.3.2 The preference of Katanga's government for MMR

As was explained earlier in the chapter, in 2009, the Katangese government became aware of the urgent need to put a stop to the unregulated flow of 3T minerals from Northern Katanga to the Kivu provinces.¹¹³ At the provincial level, several legislative initiatives were taken to solve this problem, aiming to strengthen the position of Katangese traders vis-à-vis their fellow traders from the Kivus. First, in 2009, a provincial decree¹¹⁴ was issued, making it less attractive to export Katangese minerals to neighbouring Congolese provinces (Ministry of Mines Katanga, 2009b). A tax of USD 5 was imposed on minerals exported through export hubs other than the Katangese border towns of Kalemie and Kasumbalesa.¹¹⁵ As a result of this measure, Katanga's exports to other provinces almost completely came to an end, and many Kivu-based mineral traders importing from Katanga had to cease their operations.¹¹⁶ Some of those Kivu-based buying houses, such as Metachem, Panju and Clepad tried to establish themselves in Katanga, but they were discouraged by the strict requirements of the Katangese government. In fact, the Katangese government decided that, from the beginning of January 2012 onwards, only buying houses with a proven processing capacity and a Katanga-based processing plant (*entité de traitement*) would be allowed to export minerals. In order to have their processing plants recognised and approved by the provincial authorities, Kivu's buying houses had to comply with lengthy procedures and costly conditions,¹¹⁷ making it extremely difficult for them to gain a foothold in Katanga. This resulted in their exclusion from the Katanga policy network and consequently from Katanga's 3T mineral trade.

In addition to discouraging Kivu traders from gaining access to the Katangese 3T mineral trade, the Katangese government carefully selected its partners for the implementation of the iTSCi policy initiative. Banny Banza, the provincial director of SAESSCAM, one of the state services overseeing the artisanal mining sector, described the government's preference for the company MMR, which had started its operations in Katanga in 2010:

MMR was the only serious mineral buyer at that time with which the [Katangese] government had a good relationship. MMR was an important and serious partner in the process [of implementing the iTSCi programme in Katanga].¹¹⁸

¹¹³ According to a 2010 IPIS research report, in the first half of 2009, 181 tons of coltan and 900 tons of cassiterite left the Katangese Tanganyika district to be either shipped or flown to the Kivu provinces, while, in the second half of the same year, 90% of the cassiterite from the district was transported from Lomami to Bukavu (Spittaels, 2010: 16).

¹¹⁴ *Arrêté Provincial N° 2009/0035/KATANGA du 9 Octobre 2009 instituant les modalités de transfert de la cassiterite et ses accompagnateurs de la Province du Katanga vers d'autres Provinces*

¹¹⁵ Two border towns, bordering Tanzania and Zambia, respectively

¹¹⁶ Some of these mineral traders, such as Metachem, Panju and Clepad, tried to become established in Katanga but were discouraged by strict conditions imposed by the Katangese government.

¹¹⁷ Buying houses interested in exporting minerals had, according to Article 4b of *Arrêté N° 3163/CAB.MIN/MINES/01/2007*, to demonstrate a minimum investment capacity of USD 200,000 and had to submit an environmental impact assessment and management plan (Channel Research, 2012: 21–22). Furthermore, in June 2012, it was decided that, buying houses with export ambitions were also obliged to pay USD 500,000 to the Katangese government by way of 'social contribution'.

¹¹⁸ Interview with Banny Banza, Director of SAESSCAM Katanga, Lubumbashi, 8 July 2014

Not surprisingly, MMR was given favourable treatment by the Katangese government in the years that followed the introduction of the iTSCi policy initiative in Katanga, or as a state official of the provincial *Division des Mines* put it, ‘MMR was the first one to drink from the source; hence it drank the purest “water”’.

To begin with, the Katanga government gave MMR permission to start working in areas in Northern Katanga for which the company had not yet been granted exploitation permits by the national government in Kinshasa.^{119,120} In addition, the Provincial Ministry of Mines also signed a 5-year renewable contract¹²¹ with MMR in March 2010, granting the company exclusive purchasing rights over four major coltan and cassiterite mining sites¹²² in the northern Tanganyika district. MMR obtained these exclusive purchasing rights, according to the agreement, in return for their investment in socioeconomic programmes to improve and develop social services for the mining communities involved, such as the construction of roads, wells, sanitary facilities, schools and medical centres.¹²³

5.3.3 MMR’s pre-financing arrangements with iTSCi

MMR itself has also significantly accelerated the implementation process. The company has been quite instrumental in iTSCi’s implementation in Katanga, through the provision of advance funds to iTSCi in 2011.¹²⁴ At the start of the project, iTSCi was faced with significant financial challenges. Although partly financed by ITRI and receiving donor funding from, among other organisations, the German GIZ, the Development Bank of Southern Africa and later the Dutch government, it still did not have enough money to get the programme started. In its 2011 report, it calculated the total costs for the start-up of the programme in Katanga to be USD 3.3 million for 2011 alone (iTSCi, 2011: 8). The costs of the iTSCi policy initiative are supposed to be covered through the so-called supply chain levy. Every mineral exporter is expected to pay a certain charge¹²⁵ per ton of exported minerals, and this money is then used to keep the system going. Because such funds would only become available four to five months after the mining of the ores (when metals were sold on the international market), there was a risk that iTSCi would be faced with a cash flow problem in the early stages of its activities in Katanga. The presidential mining ban (see Section 5.1) complicated the obtainment of funding even further. Due to the fact that, from September 2010 to March 2011, it was legally impossible for international traders to buy minerals from the provinces of North Kivu, South Kivu and Maniema, it became even more difficult for iTSCi to collect sufficient funding for the implementation of their traceability

¹¹⁹ Interview with Gregory Mthemba-Salter, former UN Group of Experts Member–consultant, Skype conference, 16 July 2014

¹²⁰ iTSCi started tagging activities in Kisengo (Nyunzu territory) on 1 April 2011, whereas MMR only obtained exploitation rights for its Nyunzu concessions in December 2011 (concession 12,606) and February 2012 (concession 12,607) (CAMI, 2012; Banza, 2013).

¹²¹ *Arrêté Ministériel* № 06/1331/CABMIN/MAF/KAT/2009

¹²² Two mine sites in Nyunzu territory: Kisengo (coltan) and Lunga (gold), and two mine sites in Kalemie territory: Mayi Baridi/100 Kilos (coltan) and Katonge (coltan)

¹²³ *Arrêté Ministériel* № 06/1331/CABMIN/MAF/KAT/2009

¹²⁴ Communication with Kay Nimmo, 7 May 2015

¹²⁵ The level of the export levy was USD 550 for the export of one ton of tin in 2013, according to Katanga’s *Division des Mines*.

scheme in eastern DRC. Moreover, even after the official end of the mining ban in March 2011, a de facto embargo continued to exist, as mining companies feared that buying minerals from the aforementioned conflict-affected provinces would cause them reputational damage. Because Katanga was never subject to the mining ban, iTSCi's search for funding in the province was not jeopardised. MMR's help made it possible for iTSCi to overcome their cash flow problem: MMR pre-financed between USD one and two million for the initial Katanga phase.¹²⁶ A higher staff member of MMR explained, 'We did not have a choice. We wanted to produce in a legal manner, and, without the pre-financing by MMR, iTSCi could not start.'¹²⁷

However, iTSCi has not been the only party receiving financial support from MMR. In February 2010, MMR signed a contract with the provincial branch of the national police force (*Police Nationale Congolaise*), which stipulated that the company had to pay each officer of the *Police des Mines* a fixed amount of money per month. Moreover, at least until July 2011, the company also pre-financed the salaries of police officers when the state authorities were late in paying them (Mthembu-Salter, 2011). The same thing has happened with the state mining service SAESSCAM: MMR arranges food and accommodation for SAESSCAM mine inspectors working in MMR 3T mining areas in the Lubudi territory and pays them a '*prime de motivation*' at the end of each month.¹²⁸

5.3.4 Assuring investment: MMR's purchasing agreements

As MMR has pre-financed the launch of the iTSCi policy initiative in Katanga, taking care of the salaries of agents of the Mining Police and making sure that SAESSCAM field inspectors working in the Lubudi territory have access to food and accommodation, the company can be said to have shouldered a substantial part of the financial responsibility of this mining reform programme. To safeguard its economic interests in the province, MMR has made an effort to conclude arrangements with the Katangese government to secure its access to mining, export and purchasing rights, as described above. Additionally, it has also reinforced its position by signing long-term commercial agreements both with international 3T buying companies and mining cooperatives. MMR has done this by working in so-called 'closed-pipeline systems' in Northern Katanga, which are made up of a predefined set of mine sites and cooperating mining cooperatives that only export minerals to partner-smelters and electronics manufacturers. Two examples of such closed-pipeline systems are the Solutions for Hope pipeline (SfH), which was launched by Motorola and AVX but was soon joined by other electronic end-users¹²⁹ (Solutions for Hope, 2012a, 2012b), and the Partnership for Social and Economic Solutions (PSES) closed pipeline, which was initiated by KEMET in 2011 (KEMET, 2012). Both closed pipeline initiators, KEMET and AVX assure the constant purchase of MMR's 3T mineral production. In turn, MMR has established a long-term

¹²⁶ Interview with Shaida Abdul Karim, Head of Sustainable Operations, MMR, Lubumbashi, 7 July 2014. This investment made by MMR was settled by iTSCi with MMR levies normally paid on exported minerals.

¹²⁷ Interview with Shaida Abdul Karim, Head of Sustainable Operations, MMR, Lubumbashi, 7 July 2014

¹²⁸ Interview with SAESSCAM higher official in Katanga, April 2014

¹²⁹ Such as Fairphone, Flextronics, Hewlett-Packard, Intel, Nokia, Foxconn and Schaumburg: <http://solutions-network.org/site-solutionsforhope/participants/>

relationship to ensure an orderly supply of 3T minerals from artisanal miners via the mining cooperative CDMC. This relationship with CDMC was institutionalised through a contract signed¹³⁰ in 2010 at the Provincial Ministry of Mines (Ministry of Mines Katanga, 2009a). This annually renewable contract granted CDMC the exclusive right to extract minerals from several MMR concessions, on the condition that CDMC would sell all of its minerals to MMR. MMR, for its part, advances money to CDMC for the purchase of minerals from its artisanal miners.¹³¹

5.3.5 Government support of the iTSCi traceability scheme

Although the iTSCi system is not the only traceability scheme available on the market, it appears that the Congolese central government generally gave priority to the iTSCi traceability scheme from 2011 to 2014. The solidity of this relationship is made clear by the memorandum of understanding (MoU) signed between iTSCi and the Congolese central government in 2011, in which the government agrees to work with the iTSCi policy initiative for at least one year. In addition, the government seems to have been supportive of iTSCi in subsequent years, notwithstanding their disagreements regarding the government's limited access to iTSCi's database, the alleged lack of transparency on the part of iTSCi concerning incident reporting, and the non-deployment of the iTSCi system in many mining areas in North and South Kivu (Banza, 2013). Despite these disagreements, the cooperation between iTSCi and Congo's central government has continued over the past four years and has been described positively by both parties, resulting in the repeated renewal of the MoU (iTSCi, 2012c).

In 2011, a new traceability mechanism appeared in the Great Lakes region. It was introduced by GeoTraceability,¹³² a UK-based company that, according to information presented on its website, specialises in 'large-scale data collection and traceability programmes adapted to small producers and smallholders in developing and emerging countries'.¹³³ Although the company was very motivated to start working in mine sites in the Kivus, where iTSCi was not yet active, it initially faced considerable reticence from the Congolese government. According to a high official at GeoTraceability and an independent consultant, this reticence was caused by the fact that iTSCi had pressured the Congolese Government for several years not to work with other providers of traceability. In a response to this allegation, ITRI stated that there has never been exclusivity in the cooperation with the DRC government. They explained that many traceability software suppliers have had the opportunity to work with the DRC government but were not successful—in contrast to iTSCi—in achieving the government's goals and hence lost its support. Eventually, GeoTraceability succeeded in launching its first traceability project in North Kivu's Bibatama mine in May 2014, according to a GeoTraceability high official. Moreover, in December

¹³⁰ № 06/1331/CABMIN/MAF/KAT/2009

¹³¹ Interview with Serge Mulumba, Head of the CDMC cooperative, Lubumbashi, 15–17 April 2014

¹³² Interview with a high official at GeoTraceability, 13 April 2015

¹³³ Information from GeoTraceability's website, accessed on 20 April 2015:

www.geotraceability.com/Geotraceability/en/traceability-modules.php#traceability

2014, the company managed to sign an MoU with the Congolese government that now gives them the opportunity to also start working in other 3T mining sites across the DRC.

5.4 Exogenous factors: how policy outcomes influence the Katanga policy network

As already explained in the second section of this chapter, Marsh and Smith argue that the relationship between the policy network and the policy outcome is a dialectical one, meaning that not just the network's structure and agents, but also exogenous factors such as changes in the network's context and the policy outcome influence the functioning and the shape of the policy network. This section discusses how the Katanga policy network relates to its environment, explaining how the policy network has been shaped by the specific policy outcome it has produced itself—the almost exclusive advance implementation of the iTSCi policy initiative in Katanga.

A first observation that can be made in this respect is that MMR has strengthened its economic position by securing a multitude of exploitation-, export- and mineral-purchasing rights within Katanga, in close collaboration with the Katangese government. MMR has created a reputation as a trustworthy trading partner, working in compliance with international standards, by streamlining its mineral supply chain and making various agreements with tin and tantalum buyers and with the mining cooperative CDMC. Additionally, there is longer-term stability in the tin and tantalum industry¹³⁴ because of the agreements signed with MMR, resulting in the industry's willingness to make large-scale investments in the sector and in social-economic programmes.¹³⁵ These long-term agreements between MMR, CDMC and the industrial tantalum buyers AVX and KEMET are in perfect harmony with the Western demand for due diligence: The OECD Due Diligence Guidance advises companies to establish strong company management systems through the creation of solid and lasting relationships with their suppliers (OECD, 2011: 40). The decision to put the exploitation and trading rights of four major Katangese coltan and cassiterite mines in the hands of one cooperative (CDMC), one large-scale trader (MMR) and two capacitor manufacturers (AVX and KEMET) has significantly reduced the number of actors and thus the number of transactions in the mining process. Consequently, these long-term agreements have improved the transparency of the Katanga's 3T mineral trade, decreasing the possibility of fraud and reducing the likelihood of extortion by armed groups along mineral trade routes. iTSCi, in the meantime, has succeeded in remaining the most important provider of transparency in the Great Lakes Region over the last four years. Finally, the Katangese and Kinshasa governments have assured the continuation of 3T mineral exports from Katanga, a

¹³⁴ In the form of AVX and KEMET, for example

¹³⁵ MMR has, for example, invested USD 1 million in the rehabilitation of the Kindu (Maniema Province)—Kalemie and Moba (Katanga Province) railway. It has also executed smaller social development projects such as the construction of dispensaries and primary schools and the rehabilitation of several roads throughout the province (see, e.g., '*Protocole entre MMR and SNCC relatif a la rehabilitation et exploitation du M/V Sendwe*').

significant reduction of illicit mineral transports to neighbouring provinces and consequently an increase in tax revenues.

At first glance, it seems that these reciprocal resource exchanges between the different members of the Katanga policy network have had a positive impact on Katanga's 3T mining sector and on the international campaign against conflict minerals. However, while strengthening the position of the policy network members, it has excluded others. The concentration of the iTSCi policy initiative in Katanga has had the effect of weakening the position of the Kivu-based mineral traders operating in Katanga. Katanga's legislation and the long-term agreements between members of the Katanga policy network have allowed MMR to become the province's top producer of cassiterite and coltan. Figures 5.1 and 5.2 demonstrate how, from 2011 to 2013, MMR accounted for over 82% of the province's cassiterite production and for almost 95% of its coltan production. Moreover, the mineral production statistics indicate that Kivu-based traders such as TTT, CLEPAD and PANJU, who were still active in Katanga in 2011, stopped operating in the province's 3T mineral trade in 2012.

Figure 5.1. Coltan production, Katanga 2011–2013

3T Trading houses	2010	2011	2012	2013	Total
1. MMR	152.50	329.00	236.42	243.11	961.03
2. TTT		12.50	-	-	12.50
3. CHEMAF		-	-	31.00	31.00
Total Katanga	152.50	341.50	236.42	274.11	1004.53

Source: *Division des Mines Katanga* '2011/2012/2013 production'

Figure 5.2. Cassiterite production Katanga 2011–2013

3T Trading houses	2010	2011	2012	2013	Total
1. MMR	3063.20	3639.00	3146.00	3102.00	12950.20
2. Mine d'Afrique			45.70	281.00	326.70
3. CLEPAD	25	308.35			333.35
4. COPROCO		156.00	51.00	94.80	301.80
5. CHEMAF			163.00	127.00	290.00
6. Global Mining	239.50	155.00	125.15		519.65
7. SKT (Sino Katanga)			45.68	171.43	217.13
8. CEPRODEV	30			130.00	160.00
9. Lomamines			25.00	75.00	100.00
10. GBC				91.50	91.50
11. PANJU	252.40	19.25			271.66
Total Katanga	3610.10	4277.61	3601.53	4072.75	15561.99

Source: *Division des Mines Katanga* '2011/2012/2013 production'

Another exogenous factor influencing the shape and the functioning of the Katanga policy network is the changing context within which the policy network operates. It is important to realise that our analysis only covers the years the Katanga policy network became active in the province (2009–2011). However, the context within which the Katanga policy network operated in those three years started to change beginning in early 2011. Cracks started to appear in the privileged position of several members of the Katanga policy network. Initially, MMR had a very strong position in the 3T mining sector in Katanga, and the company encountered very little competition in the early days of its existence. Today, however, MMR increasingly faces competition from other buying houses that have been operating on the Katangese market since 2012 (see Figures 5.1 and 5.2), and there are rumours that the company has difficulties purchasing all of the 3T mineral production from its concessions because of cash flow problems.¹³⁶ Second, AVX withdrew as MMR's main buyer from the large Mayi-Baridi mine in Northern Katanga in 2013, probably because of the mine's low production figures.¹³⁷ Third, CDMC has lost its position as the only mining cooperative working with MMR, as other mining cooperatives such as COMIDEK have taken over their position in several MMR mining concessions in Southern Katanga.

The 5-year contract between CDMC and MMR, which was signed in March 2010 has come to an end, and it remains to be seen how the contract will be followed up. Meanwhile, the increasing volatility of the security situation in many parts of Katanga in recent years has led to the temporary suspension of the iTSCi initiative in certain mining areas.¹³⁸ In the Mitwaba district of Katanga, for example, iTSCi's tagging activities were suspended for several months starting in April 2012, when Mayi–Mayi groups and the Congolese army confronted each other in Mitwaba Cité. In Manono, the deterioration of the security situation has also given rise to a temporary interruption of the iTSCi scheme. In early 2014, elements of the *Garde Republicaine*¹³⁹ entered an MMR mine site, demanding all mineral production to be sold to MMR's competitor, CEPRODEV. It was decided to suspend tagging for two weeks, and CEPRODEV was suspended as an iTSCi member.¹⁴⁰ Finally, the iTSCi policy initiative itself is also facing competition. Although iTSCi's MoU with the Kinshasa government has been renewed three times without interruption in recent years, a new provider of traceability schemes has jockeyed for a better position on the Congolese scene. As noted above, GeoTraceability, a UK-based company specialised in large-scale data collection and traceability programmes in the developing world's agricultural sector,¹⁴¹ has extended its traceability scheme to the DRC, signing a MoU with the Congolese government in December 2014.

¹³⁶ Fieldwork in Lubudi and Bukama Territories and an interview with a local researcher who conducts fieldwork for an international research institute around Mitwaba, Manono and Kahendwa, Lubumbashi, March 2014

¹³⁷ Currently, AVX sources from other 3T mineral producers in the DRC (source: Interview with Gregory Mthemba-Salter, former UN Group of Experts Member–consultant, Skype conference, 16 July 2014; Interview with Shaida Abdul Karim, Head of Sustainable Operations, MMR, Lubumbashi, 7 July 2014)

¹³⁸ Interview with an iTSCi high official, March 2015; Interview with MMR assistant compliance officer, March 2015

¹³⁹ Private presidential guards

¹⁴⁰ Interview with an iTSCi high official, March 2015; Interview with MMR assistant compliance officer, March 2015

¹⁴¹ Information obtained from the GeoTraceability website: www.geotracability.com, accessed on 7 November 2014

It is clear that the changing context in which the Katanga network operates influences the position of the various network members. Most importantly, the changing context has caused the network and its agents to become more loosely connected to each other. It remains to be seen, however, whether the network will survive this initial stage of the iTSCi policy implementation and whether it will continue in the coming years. Only a longitudinal study will be able to determine whether the Katanga policy network has the necessary strength and capacity to slow down or minimise the effects of this changing context, both internationally and in the DRC.

5.5 Conclusion

The present analysis makes it clear that the Katanga policy network has played a prominent role in the launch of iTSCi in Katanga. Without MMR's provision of funds, iTSCi would not have been able to start up and cover as many territories as it has, to date. Apart from this exchange of resources between MMR and iTSCi, there have also been interesting additional reciprocal relationships among the network members. MMR's agreements with the provincial government, but also with the mining cooperative CDMC and with closed pipeline actors, has created stability in the 3T mineral supply, which made it possible for MMR to pre-finance the implementation costs of the iTSCi scheme. Furthermore, the shared conflict-free Katanga discourse has allowed iTSCi and its affiliates to secure their import of Katangese minerals, their refinement and their use, without risking reputational damage. Finally, for the central Congolese and Katangese governments, the continuation of Katanga's 3T mineral trade has ensured their ability to levy taxes. However, this concentration of conflict-mineral policy in the Katanga province also has serious implications, especially in terms of the issue of upscaling. In the worst-case scenario, ITRI will not have sufficient financial means to start implementing the iTSCi scheme beyond safe places like Katanga, Maniema and Rwanda. Large parts of the Kivus, which are generally conflict-affected and where the traceability of minerals could truly make a difference in breaking the link between mineral exploitation and violent conflict, will then fall by the wayside. Miners and mineral traders working in these areas will be prevented from operating legally and from getting access to the global market in a legal manner. In such a scenario, conflict-mineral policy will be little more than a form of window dressing—an instrument to appease the conscience of Western consumers. Instead of serving as a tool to put an end to violent conflict in eastern DRC, it risks having the perverse effect of condemning a substantial part of the artisanal mining population in the Kivus to a life in the shadows.

This chapter has used the dialectical model developed by Marsh and Smith to analyse the role played by the Katanga policy network in implementing the iTSCi scheme in Katanga. The analysis shows that Marsh and Smith's model is useful in that it looks beyond a simple policy network–policy outcome relationship. The advantage of their dialectical approach is that it made it possible to acknowledge the importance of the Katanga context within which the policy network operates, appreciating the interdependencies between the policy network and its actors while recognising and highlighting their agency. Nevertheless, this chapter is not in full agreement with the ideas of Marsh and Smith about the interaction between a policy network and exogenous factors. Marsh and Smith correctly note that exogenous

factors—such as network context and policy outcome—contribute to changes within a policy network. Changes in the international and Katangese contexts, such as MMR’s disappointing production figures or the arrival of new traceability systems, have the potential to shape and change the Katanga policy network. However, Marsh and Smith’s model fails to include additional explanatory factors for policy network dynamics, meaning that an important exogenous factor—namely, policy itself—has been left out of the picture.

Bearing Marsh and Smith’s dialectical model in mind, it becomes clear that policy itself is not displayed in it. Marsh and Smith perceive policy to be the outcome of a negotiation process among the various network members—an object that has to be implemented after the policy network has been formed. The model does not explain how the implementation of policy, or the mere presence of the policy with all its aspects, influences the policy network. This chapter proposes understanding policy from a wider perspective, acknowledging it as an entity in itself. Giving a full account of how the Katanga policy network was formed, negotiated and (re-)shaped over the years requires a more extensive analytical framework that includes policy itself as an explanatory factor. Drawing inspiration from the work of Bruno Latour (2005: 54–55), it makes good sense to conceive of policy as an ‘actant’, which, despite being non-human, has its own agency and thus a capacity to modify other entities.

Photo: Jose, A. Diemel, September 2014, bags of cassiterite tagged with iTSCi-tag
in a Lebanese mineral depot in Luena, Bukama district, Haut-Lomami, DRC



Authority and access to Bukama's 3T mineral trade

This study analysed how local dynamics are influenced by artisanal mining sector reforms introduced in the Democratic Republic of the Congo (DRC) starting in 2009. These reforms, aiming to prevent the mineral trade from financing the country's armed conflict, redefined local access provision to the mineral trade. Examining the specific case of Bukama, a territory in south-eastern DRC, the study showed how the objective of establishing responsible supply chains resulted in a process of territorialisation. Through this process, traders and mine sites became listed, demarcated and classified, creating a new access order, giving rise to disputes and redirecting access towards large-scale traders. The reforms made the limited territorial reach of the central Congolese state and the absence of a clear legal framework even more visible. This study found that the resulting emergence and acceptance of locally negotiated access arrangements redirected access-granting authority towards local state institutions. Although the reforms have resulted in increased oversight over mineral flows, they have had the opposite effect on the organisation of access, making the provision of access to the mineral trade less transparent. The chapter draws upon extensive intermittent qualitative fieldwork conducted in Bukama territory, Kalemie and Lubumbashi from 2014 to 2016.

This chapter was presented at the panel on 'Africa as a new frontier? Extractive economies and re-configurations of international justice' at the 51st African Studies Association of the United Kingdom (ASAUK) International Conference (Cambridge, United Kingdom, September 2016).

It has been accepted for publication as a journal article as J.A. Diemel (2018) Authority and access to the cassiterite and coltan trade in Bukama territory (DRC). *The Extractive Industries and Society* 5(1):56-65. <https://doi.org/10.1016/j.exis.2017.12.001>

6.1 Introduction

This chapter discusses the recent transformation of access to the coltan and cassiterite trade in south-eastern Democratic Republic of the Congo (DRC), previously known as Katanga. In the early 2000s, artisanal mining in this area took place at mine sites over which no particular actors made exclusive claims. These sites were freely accessible to artisanal miners, and the market in coltan and cassiterite had few regulatory restrictions; these minerals could be traded to various parts of the country without much interference by the Congolese mining authorities.

The organisation of access underwent a major transformation from 2009 onwards, when many studies on eastern DRC¹⁴² and international awareness-raising campaigns¹⁴³ highlighted how armed groups used mineral extraction and trade to finance military operations. In response, from 2009 to 2011, African and Western governments, international multi-stakeholder organisations and private industry started looking for possibilities to stop the looting of these so-called ‘conflict minerals’ and launched multiple standards and regulatory frameworks targeting the DRC’s mineral supply chains. The Congolese government introduced new legislation aiming to extend state oversight over mineral supply chains and increase tax revenues from the mineral trade. Simultaneously, companies sourcing from the DRC and surrounding countries were required to verify the origin of their minerals, making sure that their extraction did not involve human rights violations or conflict (European Union, 2017; US Congress, 2010). Various due diligence guidelines (OECD, 2011), certification manuals (ICGLR, 2011b) and chain-of-custody tracking schemes were also launched to assist mineral buyers meeting these requirements.

This study examined how the changing regulatory landscape since 2009 redefined access to trade in artisanal minerals. Much scholarly work describing the reforms of the 3T and Gold sectors¹⁴⁴ in the DRC has focused on the eastern Kivu provinces or, to a far lesser extent, northern Katanga (Cuvelier et al., 2014; Geenen, 2012; Radley and Vogel, 2015; Seay 2012). The same is true for many non-academic studies (Freudenthal, 2017; Johnson, 2013). This geographical focus does not give Katanga the attention it deserves. Although it has been less conflict-affected than neighbouring provinces, Katanga has experienced large-scale impact from the changing regulatory framework. This study selected Bukama, a mineral-rich territory in the province of Haut-Lomami, situated in the centre of the former Katanga province (see Map 2 of tin, tantalum and tungsten mineralisation in Katanga, page xvi), as a case study to explore access to the mineral trade. Unlike many other territories in Katanga, Bukama accommodates a dynamic mineral market because of the presence of multiple large-scale traders (*comptoirs*), allowing for a multidimensional analysis of access disputes and mechanisms.

¹⁴² These studies were conducted by the UN Group of Experts (2001–2004), as well as other research institutes (e.g. IPIS, the Pole Institute, International Alert).

¹⁴³ These campaigns were carried out by advocacy groups such as the Enough Project and Global Witness.

¹⁴⁴ Conflict minerals are often referred to as 3TG minerals, indicating the metals tin, tantalum and tungsten, processed from cassiterite, coltan and wolframite ores, and gold originating from mining areas in the Great Lakes Region.

The present study focused in large part on the process of territorialisation, through which 'control over natural resources and the people using them' become established (Vandergeest and Peluso, 1995: 385), examining how this process benefited some actors more than others. The study differs from previous work on access in the Congolese mining sector in its focus on access provision to mineral *trade* rather than access to mineral *extraction* (i.e. access to local-level mine pits) (Geenen and Claesens, 2013). The present study also goes beyond rights-based access to conceptualise access more broadly.

In addition to analysing the outcome of access organisation (i.e. which actors benefitted most from the changing regulatory framework and the resulting process of territorialisation), this study also examined the transformation of Bukama's access organisation itself, exploring the changing role of access-granting institutions and the emerging mechanisms they use. Recognising the recursive constitutive relation between authority and access (Lund and Boone, 2013; Sikor and Lund, 2009), this study analysed how practices of granting or restricting access to mineral resources reproduce or challenge the authority of state mining services and other institutions in Bukama.

The chapter is based on intermittent qualitative fieldwork in Bukama territory, including its mine sites, mineral depots in Luena, and administrative hubs Kalemie and Lubumbashi, from 2014 to 2016. The fieldwork included observation, document review and approximately 100 interviews with artisanal miners, small-scale traders (*negociants*), staff members of *comptoirs* and cooperatives, civil society representatives and mining authorities. Section 6.2 discusses three analytical concepts that play a pivotal role in the analysis of access organisation in Bukama: access, authority and territorialisation. Section 6.3, the empirical part of this chapter, provides a historical analysis of Bukama's mining sector transformation from 2009 to 2015. This section describes how territorialisation gradually transformed Bukama's supply chains from 2009 to 2011 and how this new access order favoured large-scale traders, before summarising two important access disputes in Bukama territory occurring from 2011 to 2014 that highlight the increasing importance of local institutions in organising access and the emergence of local access arrangements. Section 6.4 discusses these findings against the background of the international community's attempts to increase oversight over Congo's mineral trading chains.

6.2. Access, authority and territorialisation

The present study takes an access approach to analyse the effects of recent mining sector reforms on access provision. In contrast to other scholarly work analysing the impact of mining sector reforms from a livelihoods (Hilson, 2009, 2011; Iguma 2017) or social network perspective (Smith, 2011, 2015), this access approach allows for a thorough analysis of power dynamics, highlighting questions of authority and political order while taking the legally pluralistic Congolese setting into account.

6.2.1 Access versus property

This study follows Ribot and Peluso (2003: 158) in its conceptualisation of access as 'the *ability* to benefit from things', in contrast to the more restricted concept of property, which is 'the *right* to benefit from things' attributed by law or custom (emphasis added). Multiple

scholars (Cousins, 1997; Ribot and Peluso, 2003; Sikor and Lund, 2009) have criticised the inability of literature focusing on property rights to explain the difference between what people are legally entitled to and what they have access to in reality. These scholars highlight that, especially in institutionally pluralistic settings, property is one of many mechanisms through which actors gain access to natural resources (Ribot and Peluso, 2003: 157; Sikor and Lund, 2009: 4). This chapter therefore looks beyond rights-based access mechanisms (i.e. mining titles and exploration permits), drawing attention to more structural access mechanisms, such as access to knowledge about changing mineral trade regulations, access to technology or capital to adjust to those changes, and access to power relations and networks to enforce one's claims and positions. Thus, the chapter highlights the subtle and covert ways that access has become redefined in Bukama.

6.2.2 Territorialisation

Territorialisation is a structural access mechanism highly relevant for understanding the changing access dynamics in Bukama. This process lies at the basis of the array of reform initiatives redirecting and redefining Congo's mineral supply chains. Following Vandergeest and Peluso (1995: 385), territorialisation is defined here as a continuous process through which space becomes structured, including the control over the natural resources and people located in that space. Territorialisation entails the mapping, classification and enforcement of geographical boundaries for natural resources through which 'access becomes consolidated or fixed' (Peluso and Lund, 2011: 668). Territorialisation thus directly includes or excludes certain groups of actors by 'proscribing or prescribing specific activities within [these] spatial boundaries' (Vandergeest and Peluso, 1995: 388) and 'determining acceptable resource uses' (Corson, 2011: 705).

The process of territorialisation thus 'explicitly involves *claiming*' (Peluso and Lund, 2011: 673). Claims are made, for example, regarding power to govern a particular territory (Peluso and Lund, 2011) and to collect taxes there (Vandergeest and Peluso, 1995: 390). However, these processes do not only negotiate boundaries around resources and determine who can accumulate wealth from them; these processes simultaneously organise the legal and political perceptions of a geographical space (Sikor and Lund, 2009). By making and enforcing boundaries, institutions make claims to authority and jurisdiction over this territory. When a relevant audience recognises such boundaries and the related organisation of access, the institutions see their territorial claims enforced and their authority consolidated and legitimised (Corson, 2011: 703–704; Vandergeest and Peluso, 1995: 389).

6.2.3 Access and authority in a legally pluralistic setting

Scholars writing on natural resources in the DRC draw attention to the complex institutional landscape, the malfunctioning public administration (Trefon, 2009) and the importance of non-state authority in access provision processes (Geenen and Claesens, 2013; Van Acker, 2005; Vlassenroot and Huggins, 2005). They highlight, for example, the continuous importance of customary authorities in providing de facto access to land (Van Acker, 2005; Vlassenroot and Huggins, 2005: 132) and describe how the ongoing conflict in eastern DRC has rendered access enforcement dependent on violence (Geenen and Claesens, 2013),

placing local warlords and rebel groups in the position of distributing land (Vlassenroot and Huggins, 2005). Clearly, existing work on access to natural resources in the DRC demonstrates that the authority to grant or block access is not limited to central state institutions. However, focusing on non-state authority in access provision tends to direct attention away from the pluralism *internal* to the state (von Benda-Beckmann, 2002).

This chapter aims to address this by studying the often contradictory positions taken by various parts of the Congolese state in addressing claims over access to natural resources in Bukama. Existing work highlights the mutual constituting relationship between authority and access (Lund and Boone, 2013; Sikor and Lund, 2009), noting that 'land issues are often not about land only' (Lund and Boone, 2013: 1). Struggles over access to resources are often about the establishment and consolidation of authority; as Sikor and Lund (2009: 1) put it, 'struggles over natural resources in an institutionally pluralist context are processes of everyday state formation'. The process of granting access to a certain party may provide legitimacy to the politico-legal institution doing so, and thus has the ability to reproduce, extend, undermine or challenge authority (Lund and Boone, 2013: 2). This chapter aims to analyse this relationship of access with local and national authority in Bukama's artisanal mining sector.

6.3 Redefining access in Bukama, 2009–2015

6.3.1 Pre-2009: Bukama's 'open-access' and unregulated mineral trade¹⁴⁵

The arrival of mineral traders from the Kivu provinces in the early 2000s jump-started Bukama's artisanal mining sector. Over the course of only a few years, a vibrant mining sector developed, providing a means of livelihood for a significant portion of Bukama's population. At the time, an estimated 90% of the territory's highly mineralised lands were part of concessions owned by the parastatal mining company *Société Générale des Carrières et des Mines* (GECAMINES) (FlexiCadastre). Later, when GECAMINES failed to continue to extract minerals, its abandoned concessions became freely exploited by artisanal miners. On a micro level, customary structures organised access in terms of mine-pit ownership, and Kivu traders claimed the production of the mine pits they invested in, but no one claimed ownership of Bukama's mineral deposits in general. Artisanal miners could thus access these deposits without restriction, and the mineral trade was also rather freely organised. *Negociants* could, without constraints, transport minerals from one site to the next or take them out of the territory to sell to whomever they wished, be it *comptoirs* in the Kivu provinces or Lubumbashi.

The introduction of the new Mining Code and Mining Regulations in 2002 and 2003, in theory, had the ability to significantly reform the organisation of access in the artisanal mining sector. The Mining Code officially recognised artisanal exploitation and trade,

¹⁴⁵ These findings are based on multiple interviews with state mining services, representatives of iTSCi, *comptoir* managers, the Great Chief of Kibanda Territory, Bukama-based *negociants*, a member of Bukama's economic elite, and focus groups in Kakyulu, Kyenze, Luena and Lubumbashi (September 2014–April 2016).

allowed for the creation of artisanal mining zones (*zones d'exploitation artisanale*) and established a Mining Registry (*Service du Cadastre Minier*) responsible for promoting mining property security and the transparent handling of applications through standardised licensing procedures. However, in reality, state oversight over the organisation of access to mineral deposits in Bukama remained limited through the early 2000s. Officially, mineral exploitation and trade were overseen by the *Service d'Assistance et d'Encadrement de Small-Scale and Artisanal Mining* (SAESSCAM)¹⁴⁶ and the *Bureau des Mines*,¹⁴⁷ but these state services only opened in Bukama in 2006–2007 and 2009, respectively. In the case of SAESSCAM, staffing remained very minimal. The Mining Registry had no regular presence in Bukama, and no artisanal mining zones were created in the territory, despite the large-scale presence of artisanal activity. Unsurprisingly, GECAMINES turned a blind eye to artisanal mineral extraction from its concessions, and most of Bukama's mineral production remained undocumented by state services, passing the provincial border into the Kivus without being subjected to taxes (Spittaels and Caesens, 2010: 16).

6.3.2 2009–2011: The introduction of a new regulatory framework¹⁴⁸

This landscape changed radically beginning in 2009. In the context of widespread concern with the problematic link between natural resource extraction and armed conflict in the DRC, Bukama's free and undocumented mineral trade became problematic. In the late 2000s, African and Western policy makers came together at international multi-stakeholder policy fora to discuss possible interventions to prevent mineral trade revenues from financing war efforts. This led to the endorsement of important guiding principles: The Organisation for Economic Co-operation and Development (OECD) and the International Conference of the Great Lakes Region (ICGLR) launched guidelines in 2011 advising companies on exercising due diligence throughout their supply chains (OECD, 2011) and ICGLR member states on certifying mine sites and mineral traders operating in their territory (ICGLR, 2011b).

Individual national governments also contributed significantly to the development of supply chain regulation. The United States Congress promulgated Section 1502 of the Dodd–Frank Wall Street Reform and Consumer Protection Act in 2010 (US Congress, 2010), obliging United States stock exchange-listed companies sourcing from the DRC and surrounding countries to verify the origin of their minerals. After a lengthy negotiation process, the European Union presented its Conflict Mineral Regulations at the end of 2016, requiring European Union-based importers of raw 3TG material from conflict-affected and high-risk areas to set up a due diligence system before 21 January 2021.

The extractive industry developed practical initiatives to assist mineral buyers in responding to these new requirements. In 2009, the tin (International Tin Research Institute, ITRI) and tantalum (Tantalum–Niobium International Study Centre) industries developed a

¹⁴⁶ SAESSCAM, established in 2003, provides assistance to artisanal miners through formalisation and technical support.

¹⁴⁷ The *Bureau des Mines*, or Mining Division, is responsible for the administration and inspection of mining activities as well as for compiling production statistics.

¹⁴⁸ For a more detailed overview of the various standards and regulations, see Diemel and Hilhorst (2018).

chain of custody tracking scheme to determine the origin of minerals and track them along the supply chain.

Simultaneously, the Congolese government moved in a similar direction. Partly in response to these new international requirements, it adopted into law the international certification and due diligence standards in 2012¹⁴⁹ and the ICGLR export certificate in 2013. The high level of informality caused by the lack of state oversight over the mineral trade and the related undocumented trade and low tax revenues (Spittaels and Caesens, 2010) formed another important reason for the Congolese government to push for mining sector reform. In October 2010, the national Ministry of Mines and Ministry of Finance adopted legislation outlining the implementation of extensive traceability measures, covering all stages in the mineral supply chain from the mine pit to export, the responsible state authorities and the documents required.¹⁵⁰

6.3.3 2009–2011: Territorialisation and the redirection of mineral supply chains¹⁵¹

This combination of national and international regulations resulted in a process that is analysed here using the concept of territorialisation. The following sections describe how this process, which redirected and reordered Bukama's mineral supply chains, impacted the organisation of access of the actors and networks connecting them.

6.3.3.1 Provincial legislation

In addition to developments in national law, the provincial government of Katanga led by the progressive and business-oriented governor Moïse Katumbi at the time also introduced regulations impacting the mineral trade and access to it. Bukama's mineral supply chain, which had been fixed towards the Kivus for several years, became redirected towards Katanga's export hubs of Kalemie and Kasumbalesa after 2009, when new tax legislation¹⁵² successfully discouraged the transport of Katangese minerals into neighbouring provinces by imposing a USD 5/kg tax. As a result, Katanga's export to other provinces almost completely stopped, and many Kivu traders who sourced from Katanga had to cease their operations or find new Katanga-based buyers.

The supply chain was similarly reordered by a ministerial decree issued in March 2010 prohibiting artisanal mining '*en solo*'. The Congolese government required diggers to join cooperatives, resulting in an explosion of artisanal miners' cooperatives in Katanga.¹⁵³ These groups came to play an intermediate role in the trade between the diggers and the *comptoirs*.

¹⁴⁹ *Arrêté Ministériel* N0058/CAB.MIN/MINES/01/2012 and *Arrêté Ministériel* N0057/CAB.MIN/MINES/01/2012

¹⁵⁰ *l'Arrêté interministériel* N° 0711/CAB.MIN/MINES/01/2010 et n°206/CAB/MIN/FINANCES/2010

¹⁵¹ These findings are based on multiple interviews with SAESSCAM and *Police des Mines* directors and agents, Bukama-based *negociants*, and *comptoir* managers in Kyanze, Luena and Lubumbashi (April 2014–April 2016).

¹⁵² *Arrêté Provincial* N° 2009/0035/KATANGA du 9 Octobre 2009

¹⁵³ From a handful before 2010 to over 100 in 2014

6.3.3.2 Mapping, listing and classification through chain of custody tracking

The reordering of Bukama's mineral supply chains reached another level with the introduction of the private industry-led ITRI Tin Supply Chain Initiative (iTSCi) in Katanga in April 2011. Responding to the new requirements for mineral buyers to verify the origin of their minerals, the iTSCi chain of custody tracking scheme provided a means for companies sourcing from the DRC to prove their chain of custody did not contribute to armed conflict. It registered trade data during commercial transfers at mine sites, mineral depots and at the time of export, tagging mineral bags with unique barcodes to allow minerals to be traced along the supply chain all the way back to the mine pit. Aiming to facilitate the verification of minerals' origin, it became paramount for iTSCi to be able to identify the actors extracting, trading and transporting minerals along the supply chains. From its start in 2011, the initiative began a vigorous campaign to register these actors throughout the DRC, thoroughly screening potential members and classifying them as either suitable for membership or not based on these companies' management systems, risk assessments and possible links to armed groups.¹⁵⁴

At a rapid pace, iTSCi mapped, registered and subdivided Bukama's 3T mine sites into the four mining sectors of Kyenze, Mitantala, Kakesa and Kamateshi¹⁵⁵ (see Map 2 of mineralisation in Bukama/Lubudi, page xvi) and 26 sub-sectors (ITRI, 2015a). Additionally, iTSCi teams conducted baseline studies of Bukama's mine sites (ITRI, 2012) during the first years of implementation, distinguishing them by production level, number of diggers, type of mineral ore and GPS coordinates. ITRI had a strong power position in mapping the area and controlling registration from 2009 to 2014. Becoming a member of iTSCi became the norm during this period, as mineral export from the DRC without tags was no longer allowed after 2011. ITRI's position was strengthened by the fact that the Congolese government enforced it as the *de facto* sole provider of chain of custody tracking from 2010 to 2015; no competing providers were allowed access until May 2014 (Diemel and Cuvelier, 2015: 157).

Through iTSCi's baseline studies and registration lists, as well as the new tax regulations, Bukama's mining spaces and actors became mapped and registered. Furthermore, through what Vandergeest and Peluso (1995: 388) call 'the textual mediation of property rights', these mapping exercises also led to the consolidation of the new 'status' and related user claims of Bukama-based cooperatives and *comptoirs*. Together, the new tax regulations, the practices of mine site listing and classification, and the categorisation of actors redefined Bukama's mineral supply chains. These shifts might seem to be neutral and necessary practices inherently following from the international demand to exercise due diligence. However, their effects go beyond simple reordering. These processes of territorialisation redefined access and altered the control over Bukama's mine sites, mineral trade and the people involved (Peluso and Lund, 2011: 668), including certain mineral flows in the internationally recognised legal circuit of conflict-free mineral trade, while excluding others.

¹⁵⁴ Annual audits of full members, conducted by Channel Research

¹⁵⁵ This map also shows three other mining sectors in the Lubudi territory: Mikengele, Katanda and Busanga.

6.3.4 2009–2011: The arrival of new traders and the effects of territorialisation¹⁵⁶

As the previous section outlines, Bukama's supply chains and existing access structures were challenged by the process of territorialisation. This process bounded space and the movement of the people involved and produced a 'new sort of common sense' (Peluso and Lund, 2011: 677), although this was not automatically accepted by all Bukama traders. This section and Section 6.3.5 analyse the implications of this new access order, exploring how it impacted Bukama's various traders and favoured some actors over others, and how this new common sense was enforced and consolidated through Bukama's institutions.

6.3.4.1 Installation of Mineral Mining Resources in Bukama

Beginning in 2009, a number of new private actors arrived in Bukama. The new requirements to verify minerals' origin and to increase transparency in the supply chain encouraged Lubumbashi-based *comptoirs* (mainly Indian-, Chinese- and Lebanese-owned) to leave the city to move closer to the mine sites, allowing them to increase their oversight over the mineral supply chains.

In June 2009, Mining Mineral Resources (MMR) became the first *comptoir* to open in Luena. The Lubumbashi-based mineral buyer is part of the large Indian business conglomerate Vinmart, which is active throughout the DRC and other parts of Africa (IPIS CIFOR, 2013; Priester, 2012). MMR also has close relationships with the Malaysia Smelting Corporation (MSC), the largest purchaser of tin ore in Africa's Great Lakes region. MSC is the sole buyer of MMR's tin ore,¹⁵⁷ and the two companies jointly formed a partnership to buy cassiterite, coltan and wolframite from the Maniema Province. MSC is a leading member of ITRI and one of the initiators of the organisation's traceability and due diligence system.¹⁵⁸

MMR created an important market position for itself in Katanga. From 2011 to 2013, MMR became Katanga's top producer of cassiterite and coltan, accounting, on average, for 82% of the province's cassiterite production and 95% of its coltan production (Diemel and Cuvelier, 2015: 158). The development of this near monopsony¹⁵⁹ can in large part be explained by MMR's prominent role in implementing the iTSCi system in Katanga. As the first *comptoir* in Katanga to seriously engage in exercising due diligence, MMR closely collaborated with both the Katangese government and iTSCi to set up a chain of custody tracking system in the province, providing USD 1 million–USD 2 million in funding to enable its launch in 2011¹⁶⁰ (J. A. Diemel & Cuvelier, 2015)(J. A. Diemel & Cuvelier, 2015). In exchange for its engagement in the promotion of due diligence, it is said that MMR was given favourable treatment by the Katangese government (Diemel and Cuvelier, 2015: 156). Emile Mota, a member of the local Bukama elite, Congolese parliamentarian and former Minister of Agriculture, is also said to have been involved in facilitating the installation of

¹⁵⁶ This section's findings are based on multiple interviews with MMR and *Cooperative Minière et Développement du Katanga* staff members, *negociants*, and MMR's compliance officer in Luena and Lubumbashi, March 2014–March 2015.

¹⁵⁷ Interview, MMR compliance officer, Lubumbashi, 7 July 2014

¹⁵⁸ Information from MSC's website: <http://www.msmelt.com>, accessed on 26 June 2014

¹⁵⁹ A market situation with only one buyer

¹⁶⁰ Interview, MMR compliance officer, Lubumbashi, 7 July 2014

MMR in Bukama. This array of relationships indicates that MMR is well connected in both international commercial networks and Congolese political networks. As a SAESSCAM agent from Bukama put it, ‘MMR’s position allows for it to control every single kilogram of cassiterite from Bukama.’¹⁶¹

It is with this strong political and commercial network that MMR began operating in Bukama in 2009. To ensure exclusive purchasing rights from specific mine sites, the *comptoir* managed to sign the SECAKAT joint-venture contract¹⁶² with GECAMINES in 2010, granting the *comptoir* access to significant parts of Bukama’s mineral deposits in Mitantala and Kakesa, and in Busanga further south in Lubudi (see Table 6.1 and Map 3 of mining licenses in Bukama/Lubudi, page xvii). In addition to these joint-venture concessions, MMR claimed to have also gained access to many other Bukama mine sites in 2010 through a highly contested lease contract¹⁶³ signed with GECAMINES that was never publically disclosed to local state authorities or civil society in Bukama.

Table 6.1. Overview of mining licences in Bukama and Lubudi as of 2015¹⁶⁴

Validity	Mining licence	Licence holder	Name operator	Mine sites on concession
2009-2014	PR 2154	Aurum sarl	MMR sarl	Kyenze: Kyenze central
2009-2014	PR 2152	Aurum sarl	MMR sarl	Kamateshi: Kamateshi
2013-2020	PE 119/PE 13092	SECAKAT	MMR sarl	Kakesa: Kibuto, Kikole
2005-2020	PE 120	SECAKAT	MMR sarl	Katanda: Katanda
2005-2020	PE 122	SECAKAT	MMR sarl	Mitantala: Dialubembe
2010-2040	PE 2361	GECAMINES	MMR sarl	Busanga: Ciel, Manguier, Mash.
2014-2044	PE 1088	GECAMINES	CHEMAF	Kakesa: Bulomo (Réseau)
2010-2040	PE 2362	GECAMINES	CHEMAF	Mitantala: Kashiki
2015-2045	PE 1776	GECAMINES	CHEMAF	Kyenze: Kawama
2012-2016	PR 6445	Terre Company	Sino Katanga Tin sarl	Mitantala: Misapa, Mitantala
2014-2019	PEPM 1929	Sino Katanga Tin sarl	Sino Katanga Tin sarl	Mikengele: Mikengele

6.3.4.2 Contestation among MMR, cooperatives and Bukama *negociants*

MMR’s installation in Bukama and its joint-venture and lease contracts with GECAMINES seriously impacted the trading position of *negociants* in the territory. In 2009, during its first year in Bukama, MMR sourced minerals from many *negociants* active in the territory, and partly from MMR’s own concessions. These *negociants* also traded with *comptoirs* based in the Kivus until the introduction of new tax regulations in 2010, and quite a few had

¹⁶¹ Interview, SAESSCAM agent, Luena, 1 April 2016

¹⁶² The joint-venture *Société de l’Exploitation de Cassiterite a Katanga* was created through contracts № 1057/20523/SG/GC/2010, *Convention de Joint-Venture entre La Générale des Carrières en des Mines et Mining Mineral Resources sarl. Relative à l’exploitation de la cassitérite et de ses accompagnateurs dans les périmètres couverts par les permis d’exploitation (PE) 119 et 122 appartenant à GECAMINES*, and № 1057/20523/SG/GC/2010 *Avenant № 1, permis d’exploitation (PE) 120*.

¹⁶³ Mining Code; Title VII, Chapter I: Lease

¹⁶⁴ Compiled from FlexiCadastre 2015 maps and ITRI March 2015: Katanga Mine Site List

substantial trade empires. Some individually managed to source up to five tons of cassiterite per month¹⁶⁵—the equivalent of 12% of Bukama's cassiterite production at the time—and were able to save up to ten thousands of dollars through their work.

However, this initially mutually beneficial collaboration came to an end at the beginning of 2010, when MMR discovered that several *negociants* were simultaneously selling large quantities of Bukama minerals to other *comptoirs* based in Lubumbashi and the Kivus. MMR believed such sales were in violation of the company's exclusive purchasing rights in the area, based on their joint-venture and lease contracts with GECAMINES. The Kivu *negociants* refused to cease their buying operations, however, and retorted that many of Bukama's sites fell outside of MMR's domain. Many of the *negociants* believed they had the right to buy minerals wherever they wanted; as one of those traders stated: 'I do not believe in the concept of concessions'.¹⁶⁶

Eventually, this situation led to serious confrontations. In the spring of 2010, GECAMINES' industrial guards seized large cassiterite loads from individual *negociants*, and several *negociants* found themselves arrested by the *Police des Mines* on charges of mineral theft from MMR concessions.¹⁶⁷ Ensuing court cases resulted in some *negociants* losing their trading licences (the *carte negociant*), and others were forced to sell their mineral loads back to MMR, allegedly for no more than 25% of the market value.¹⁶⁸

Relations between MMR and Bukama's *negociants* worsened further in 2010, when MMR adopted an alternative purchasing strategy, providing exclusive purchasing rights on MMR's concessions to two cooperatives: *Cooperative des Artisanaux Minières du Congo* (CDMC) and *Cooperative Minière et Développement du Katanga* (COMIDEK). This purchasing arrangement provided MMR with more oversight over its mineral supply chain, as the company then dealt with only two intermediary traders—both accepted iTSCi members—instead of a multitude of *negociants*.¹⁶⁹

6.3.4.3 Restriction of 'ability to benefit'

At first glance, the *negociants* do not appear to have been dispossessed outright or excluded from the mineral trade. Bukama's *negociants* did not lose any *de jure* rights to trade minerals from Bukama through the installation of MMR in the territory or its agreements with the two cooperatives. However, MMR's arrival and claims to exclusive purchasing rights in Bukama did seriously restrict these *negociants*' *de facto* 'ability to benefit' from the mining production output and its valorisation in international markets (Ribot and Peluso, 2003: 158).

To source minerals from MMR's mine sites, *negociants* now had to become member of COMIDEK or CDMC. Describing their mistrust of the cooperatives, Bukama's *negociants*

¹⁶⁵ Estimated based on Bukama cassiterite production levels provided by SAESSCAM on 27 February 2015

¹⁶⁶ Interview, *negociants*, Luena, 22 November 2014

¹⁶⁷ Radio Okapi (2010) 'Luena: la cassitérite oppose la Gécamines, MMR et les négociants', 18 March 2010 <http://www.radiookapi.net/economie/2010/03/18/luena-la-cassiterite-oppose-la-gecamines-mmr-et-les-negociants>, accessed on 5 January 2015, and interviews with Bukama-based *negociants*, October–November 2014

¹⁶⁸ Interviews, Luena-based *negociants*, Luena, 5 October 2014

¹⁶⁹ Interview, MMR compliance officer, Lubumbashi, 4 March 2013

noted: '*Joining these cooperatives only costs us a membership fee, without receiving any advantages in return.*'¹⁷⁰

They did not feel assisted or represented by the cooperatives, which, in their view, were merely present to trade in minerals instead of representing miners' interests. *Negociants* could no longer freely source from Bukama's mine sites or sell to whichever *comptoirs* they pleased, and they saw their negotiation position deteriorate, as mineral prices were unilaterally set by the *comptoirs*.

6.3.4.4 Consolidation of a 'new common sense'

It is important to emphasise that Bukama's *negociants*' access to the mineral trade was not simply restricted following the arrival of a new large-scale *comptoir* with an extensive commercial and political network; the new requirements for a highly organised and rigid supply chain model also played an extremely important role. Small-scale *negociants* were gradually excluded from the internationally recognised legal trade circuit in 'conflict-free' minerals because these actors' dispersed nature and informal way of operating did not fit well into the new international requirements for identifiable actors with a fixed address and government registration number (ICGLR, 2011a).

MMR, in sharp contrast to the *negociants*, swiftly managed to position itself as an internationally recognised, legitimate trader. Understanding the rules of the game, it presented itself as a clearly defined trading entity in compliance with the new requirements, became an iTSCi member, and developed a well-defined and rigid purchasing strategy. Becoming recognised as a legitimate actor within the international mineral trade circuit not only helped to consolidate MMR's trading position; it also facilitated the consolidation of its access claims regarding Bukama's mine sites.

Katanga's public state mining services, including the *Bureau des Mines*, SAESSCAM and the *Police des Mines*, as well as iTSCi, played an important role in consolidating MMR's claims to exclusive purchasing rights on most mine sites in Bukama after 2010. Although MMR's claims were allegedly not backed by solid legal documentation¹⁷¹ and multiple public agents and Bukama iTSCi employees stated that MMR most likely purchased minerals from outside its concessions, these institutions generally defended MMR's claims.

Through their newly assumed responsibilities within the iTSCi system, the local state authorities indirectly enforced MMR's position. They indirectly normalised a mineral flow from Bukama's mine sites to MMR's mineral depot in Luena through the practices of tagging minerals, verifying compliance with international standards and placing spatial markers, such as roadblocks, at mine site entrances. This supported MMR as the rightful owner of these minerals, while indirectly criminalising mineral trade by *negociants* who sold minerals to other *comptoirs*.

¹⁷⁰ Focus groups, several *negociants*, Luena, 23 November 2014

¹⁷¹ The SECAKAT contract, public information from the Mining Registry and the lease contract between GECAMINES and MMR, which was never publically disclosed

6.3.5 2013–2014: Disputes, new mechanisms and institutional change¹⁷²

The new regulatory framework for the Congolese mineral trade and the accompanying territorialisation process did more than affect Bukama traders' ability to benefit from the mineral trade; it also brought about institutional change. This section discusses two disputes over access at the Kyenze and Bulombo mine sites, highlighting the growing importance of local institutions in the organisation of access and the emergence of access arrangements that were locally accepted but not recognised by Congolese law.

The access landscape transformed again in 2013, when new *comptoirs* started to arrive in Bukama. Where Bukama's *negociants* had failed to counter MMR's claims on Bukama's mine sites outside of the SEKAT concessions, the newly arriving *comptoirs*—Chemicals of Africa (CHEMAF) and the Chinese Sino-Katanga Tin (SKT)—succeeded.

6.3.5.1. Mineral trade in Kyenze and the emergence of a 'zone neutre'

Contestation over access to the mineral trade in Bukama reached its peak in the Kyenze mining area, Bukama's main cassiterite mine site, which accounted for almost 50% of Bukama's mineral production. A dispute arose when the newly arrived *comptoirs*, CHEMAF and SKT, started sourcing from Kyenze, where MMR claimed to have exclusive purchasing power based on their lease contract with GECAMINES. For over a year, all three *comptoirs* sent *negociants* to source minerals from Kyenze. The situation remained tense and disputed, with the three *comptoirs* mutually accusing each other of mineral theft and the illegal blockage of access based on false claims.

Finally, in May 2014, local authorities (SAESSCAM and the *Bureau des Mines*), together with iTSCi, addressed the issue openly, organising a local meeting in Luena with the various *comptoirs*. During the meeting, MMR was asked to provide proof of their contract, but they failed to do so.¹⁷³ According to MMR employees, MMR had provided the contract to Luena's state mining services upon their arrival in 2010 and stated:

We were not able to show the contract, as it was safeguarded in a vault in Lubumbashi.¹⁷⁴

However, SAESSCAM and iTSCi officials claimed to have never seen the contract.

This ambiguous situation demonstrates the complex realities and lack of transparency faced by local stakeholders in the DRC regarding mineral purchasing rights and access claims. Although the Mining Code¹⁷⁵ stipulates that lease contracts are to be examined and registered by the Mining Registry in Kinshasa, lease contracts are often not publically disclosed—even with the mining authorities—as the Kyenze case indicates. This lack of information-sharing—and cooperation, in more general terms—between the central government and Bukama's local authorities left SAESSCAM and the *Bureau des Mines* in

¹⁷² This section's findings are based on a CHEMAF presentation on concession ownership in 2013, as well as multiple interviews with *comptoir* managers from MMR, CHEMAF, SKT and OPERA; cooperative agents; SAESSCAM, *Bureau des Mines* and *Police des Mines* staff members; *negociants*; Bulombo miners and the *président des creuseurs*; and civil society members in Lubumbashi, Luena, Kyenze and Bulombo, October 2014–February 2016.

¹⁷³ Meeting notes, *Reunion de la Committee Local de Suivi*, Luena, August 2014

¹⁷⁴ Interview, MMR employee, Luena, 25 November 2014

¹⁷⁵ Mining Code; Title VII, Chapter I: Lease, Articles 178–179

the dark concerning the precise conditions and even the existence of the MMR–GECAMINES lease contract.

It is striking that the Mining Registry, a central institution responsible for safeguarding property and purchasing rights, was not involved in resolving the Kyenze dispute and had not been informed about the situation in Bukama.¹⁷⁶ This apparent disinterest in the protection of purchasing rights can largely be explained by the Kinshasa government's focus on large-scale mining, to the detriment of attention and financial resource commitment to the artisanal mining sector (Cuvelier et al., 2014: 17–20). The Registry has no local representation in Katanga's artisanal mining areas, except for a provincial office in Lubumbashi. The Registry holds a very narrow perception of access to mineral resources, perceiving it to be limited to property rights. This situation does not motivate the Registry to become involved in mineral trade access disputes. When asked about their position regarding contestation over access in Bukama, senior staff of the Registry's Lubumbashi office responded:

We haven't conducted any field visits there [in Bukama], as the property rights situation is clear in the territory. GECAMINES owns almost all concessions, so conflict does not easily occur in Bukama.¹⁷⁷

This Registry's ignorance of the complexity of the organisation of access to the mineral trade is echoed by the Mining Code, which also fails to provide a legal framework to organise access to the cassiterite and coltan trade.

The ambiguity of the MMR–GECAMINES lease contract and the Registry's obliviousness about access disputes in the territory left SAESSCAM in a difficult position. SAESSCAM, with the limited mandate of promoting artisanal mining and registering mineral production, officially had no authority to interfere in access disputes, but daily confrontation with the grievances of Bukama's *negociants* put the local institution in a difficult position. Needing to negotiate its position to remain on friendly terms with *negociants* while dealing with the various claims made by the three *comptoirs*, SAESSCAM acted to resolve the situation at the end of 2014. In October, SAESSCAM transformed Kyenze into a 'zone neutre'—a neutral artisanal mining zone—allowing all Luena-based *negociants* to source from it.¹⁷⁸ This decision, to date, has been accepted by the various parties involved in Bukama's mineral trade.

The Kyenze case demonstrates the fluidity of access arrangements in Bukama. It shows that perceptions of what constitutes a legitimate access claim change over time (Sikor and Lund, 2009: 7) and are subject to the changing interests and power positions of Bukama's authorities. Whereas Bukama's authorities supported MMR's claim over Kyenze from 2010 to 2012, in 2014, those same authorities decided to open Kyenze to all of Bukama's mineral traders.

¹⁷⁶ Interview, provincial Administrative and Technical Director, Mining Registry, Lubumbashi, 30 January 2015

¹⁷⁷ *Idem*

¹⁷⁸ Meeting notes, *Reunion de la Committee Local de Suivi*, Luena, October 2014

6.3.5.2 Bulombo and the 'temporary transfer of mineral trading rights'

Another case of local access negotiation in Bukama occurred in 2014. Against the background of drastically declining mineral prices, only months after its arrival in Bukama, CHEMAF decided to cease purchasing minerals from the territory. This decision resulted in a complicated situation for artisanal miners and *negociants* operating in CHEMAF's mine sites. In Bulombo, Bukama's largest coltan and cassiterite mine over which CHEMAF held exclusive purchasing rights, artisanal miners and *negociants* were legally obliged to sell only to CHEMAF. When CHEMAF ceased purchasing in September 2014, these miners no longer had a legal means of selling their minerals, leaving miners and *negociants* active in Bulombo without no way to valorise their mineral production or support their livelihoods.

Aiming to mitigate this livelihoods problem for Bulombo's miners, SAESSCAM, the *Bureau des Mines* and the *Police des Mines* condoned the continuation of mineral trade from Bulombo¹⁷⁹ and turned a blind eye to minerals leaving the mine site. These unofficial practices allowed minerals officially owned by CHEMAF and allegedly tagged with codes from other mines sites to be traded to the *comptoirs* SKT and MMR and to enter the legal circuit.

Bukama's local authorities had an additional financial motivation for condoning the continuation of mineral trade from Bulombo. When CHEMAF ceased its purchasing operations, it also stopped paying its '*prime de motivation*' to local state agents. These payments had been the only regular income for some, who received no regular salary from the Congolese government.¹⁸⁰ Allowing SKT and MMR to source from CHEMAF mines ensured that local state agents would continue to be remunerated by those *comptoirs*.

In November 2014, at a local stakeholder meeting in Luena, in the presence of SAESSCAM, the *Bureau des Mines* and local iTSCi staff, the status quo became officialised in a covenant signed by CHEMAF and the other Bukama-based *comptoirs*, transferring purchasing rights to allow the latter to purchase minerals officially from CHEMAF's concessions. The covenant was a viable solution, beneficial to most stakeholders in Bukama. It allowed SKT and MMR to extend their sourcing area, artisanal miners and *negociants* to officialise their income activities, and CHEMAF to avoid the withdrawal of its trading license by the Minister of Mines, as there was continued activity on its concessions.¹⁸¹ For iTSCi, SAESSCAM and the *Bureau des Mines*, this transfer of trading rights prevented the loss of oversight, as well as providing potential tax revenues and a regular income.

6.3.5.3 Consolidating SAESSCAM's authority over the organisation of access

From the above analysis of three access disputes in Bukama, it is clear that SAESSCAM, a local state institution, played a decisive role in resolving these disputes by granting or blocking access to the mineral trade. Notably, interfering in such situations goes significantly beyond SAESSCAM's mandate, taking over tasks of the Mining Registry, which is legally

¹⁷⁹ This is demonstrated by the exit vouchers for Bulombo minerals issued by SAESSCAM during this period.

¹⁸⁰ Interviews, multiple *Bureau des Mines* and SAESSCAM agents, Luena, Kyenze, Bulombo and Lubumbashi, November 2014–March 2015

¹⁸¹ Mining Code, Title IV, Chapter II, Article 126

responsible for safeguarding property rights. The creation of a ‘*zone neutre*’ in Kyenze and the drafting of a covenant allowing for the temporary transfer of purchasing rights for Bulombo minerals were locally negotiated solutions that were not recognised by Congolese law and were concluded without Registry oversight or official procedures.

Nevertheless, these arrangements made sense for the local context, proved to be viable solutions to local problems and were largely accepted by the clashing parties. These cases and their resolution show that, simultaneously to a new access order being enacted, the authority of the institutions enacting this change became consolidated. By drawing boundaries around mineral deposits, classifying them, placing spatial markers and enforcing MMR’s access claims from 2009 to 2013, Bukama’s local SAESSCAM branch played an important role in deciding who could accumulate wealth from Bukama’s mine sites, simultaneously establishing a space where it claimed to hold authority over organising access.

The later resolution of the Kyenze and Bulombo cases highlights how SAESSCAM’s position as the leading access-providing authority became further consolidated. Through their combined practices, the involved stakeholders legitimised SAESSCAM’s position as the leading authority in access provision in the territory: SAESSCAM’s accepted authority in the organisation of access was not simply *represented* in these arrangements; it was *produced* through them (Sikor and Lund, 2009: 10). MMR accepted the sourcing of minerals from Kyenze by CHEMAF and SKT even though Kyenze was not an official *zone d’exploitation artisanale*. Agents of the *Police des Mines* no longer blocked the access of non-MMR *negociants* to Kyenze. Non-state institutions also played an important role in the consolidation process (Corson, 2011; Peluso and Lund, 2011). By actively participating in the organisation of access to mine sites, tacitly tagging and supporting the sale of minerals from Kyenze and Bulombo to the new *comptoirs*, iTSCi legitimated SAESSCAM’s arrangements and hence its authority to determine access to Bukama’s legal conflict-free mineral trade circuit.

6.4 Discussion and conclusions

This chapter discusses the effects of national and international attempts to improve oversight over mineral trade in the DRC on the organisation of access to this trade in the territory of Bukama from 2009 to 2015. It highlights three important consequences. First, a new regulatory framework for mineral supply chains redirected access in Bukama towards large-scale traders, to the detriment of Bukama’s *negociants*’ ability to benefit from mineral production and trade. Second, reform initiatives caused a restructuring of the mineral supply chains, and oversight over them improved as the reforms made traders easier to identify and mineral flows became traceable back to their origin. However, a third point is that enhanced transparency in the mineral supply chains has not been accompanied by a similar move towards increased transparency in other elements of the artisanal mineral sector.

In relation to this third point, policy makers do seem to have anticipated that enhanced transparency in mineral supply chains would carry over to other parts of the sector. The Dodd–Frank Act, for example, proposed a strategy to ‘strengthen governance that can

facilitate and improve transparency' (US Congress, 2010: 840). Some policy makers have stated this directly, as is seen in a 2012 OECD report stating that 'The iTSCi project has considerably enhanced transparency and good governance in the 3T mineral sector' (OECD, 2012: 10).

The Bukama case demonstrates that the implementation of the reforms actually had the opposite effect on the organisation of access: The new national and international requirements on mineral trade in the DRC have rendered access to the mineral trade less transparent through the unintentional institutional change they caused. Immediately following the introduction of the new standards and regulations, a process of territorialisation began to list, demarcate and classify traders and mine sites. This process resulted in new situations of exclusion, giving rise to contestation over access to the mineral trade in Bukama. In a country where the territorial reach of the central state is limited (Trefon, 2009), centrally organised safeguarding of property rights and the existing legal framework organising access to the mineral trade is unable to respond to disputes, the implementation of these reforms led to the surfacing of key institutional voids. This left local institutions, such as SAESSCAM with little choice other than attempting to find ways to resolve the access disputes that arose. They did so by granting access through local access arrangements. However, although these arrangements seemed to make sense at local level, they were not legally recognised or centrally administered. Rather, their negotiation was detached from central decision-making levels and hidden from the public eye.

This 'open moment,' as Lund (1998) describes occasions when 'the social rules and structures are suddenly challenged and the prerogatives and legitimacy of politico-legal institutions cease to be taken for granted', provided an opportunity for local state institutions in Bukama to extend their authority. The negotiation of local access arrangements, their enforcement and ultimately their acceptance by local stakeholders redirected access-granting authority towards local state institutions.

In sum, although the reforms' attempts to formalise the mineral trade have led to a clearly organised trading system and consequently more oversight, they have made the provision of access to the mineral trade far more complex and obscure. The expansion of SAESSCAM's authority regarding access added an additional layer to access provision, increasing existing tensions between central and local governance and rendering an already complex sector even more obscure. Additionally, the lack of central registration and public disclosure of local arrangements conceals the reality of who benefits in which mining areas. The temporary and fluid character of these arrangements and their lack of legal basis cause them to fail to provide tenure security and risk easily giving rise to new disputes, rendering the organisation of access to the mineral trade in Bukama highly volatile and subject to local power struggles.

It is imperative for the central Congolese government and international policy makers to acknowledge the complexity of the organisation of access in the artisanal mining sector, and to recognise that the absence of a national legal framework hinders tenure security and impedes the settlement of conflicts over access through standardised procedures.

Lastly, it is important to highlight that the current reforms focus exclusively on improving mineral supply chains, overlooking the need for change in other areas of the artisanal mining sector, such as the provision of access to the mineral trade, tax levying

practices and local mining governance in general. This approach risks policy makers becoming satisfied with the accomplishments regarding the organisation of supply chains, despite negative changes in the organisation of other parts of the mining sector.

Photo: Jose, A. Diemel, November 2014, an artisanal miner washes his coltan production in a wash pit near Bulumbo mine, Bukama district, Haut-Lomami, DRC



Natural resource governance 'by discharge'

New national and international requirements for the trade in 'conflict minerals' introduced after 2010 have resulted in the extension of the local state apparatus in mining areas across the Democratic Republic of the Congo. The regulations have also led large-scale mineral buyers to settle near these mining areas. Focusing on Bukama, a mineral-rich territory in the Haut-Lomami province in southern Democratic Republic of the Congo, this study examined how these changes altered governance dynamics and affected the relationship between local state institutions and the population from 2010 to 2015. Based on fieldwork conducted 2014–2016, the findings show that the extension of local-level state presence has not been coupled with the necessary financial support from the central Congolese state, leading to an underpaid local state apparatus and the extended harassment of local mining communities. Simultaneously, the private sector has begun to engage in natural resource governance, including amongst others the provision of basic services to communities. The present chapter argues that the private sector's facilitation of state functioning has (1) normalised the central state's limited engagement in natural resource governance, (2) hampered the establishment of a legitimate state–society relationship and (3) enabled exploitative local state practices.

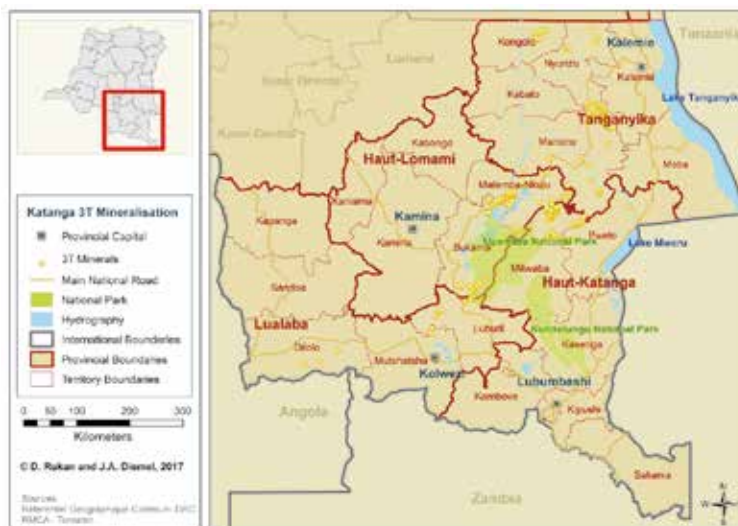
This chapter was presented at the 'Development 2.0 or "business as usual"?' Conference, organised by the Institute of Development Policy and Management (Antwerp, Belgium, June 2015).

It has been submitted to the *Journal of Eastern African Studies* for publication as J.A. Diemel (2018) Natural resource governance 'by discharge' and local state legitimacy in Bukama, Democratic Republic of Congo.

7.1 Introduction

Attempts to stop the trade in ‘conflict minerals’¹⁸² in the Democratic Republic of the Congo (DRC) have brought significant change to the governance of the artisanal mining sector over the last seven years. In the early 2000s, international awareness raising began to highlight the problematic link between armed conflict and the mineral trade in the DRC, as armed groups were said to finance their war efforts through this trade. Beginning in 2010, the international community and national governments in the Great Lakes Region issued guidelines and legislation¹⁸³ to increase oversight over mineral trade and enhance responsible sourcing of minerals from Central Africa. This study analysed how the conflict-mineral policy agenda affected local natural resource governance in Bukama, a territory in the province of Haut-Lomami in the south-eastern part of the DRC (see Figure 7.1). The regulations extended the local state apparatus in Bukama, and large-scale mineral-buying houses (*comptoirs*) came to settle close to the mine sites. These actors’ presence weighed heavily on Bukama’s mining communities, whose opportunities to benefit from mineral extraction and trade diminished significantly. Bukama’s mining communities also faced a larger number of underpaid state agents looking for opportunities to make ends meet. The new situation resulted in tensions among the mining communities, the local state institutions and the newly arrived *comptoirs*.

Figure 7.1. Katanga 3T mineralisation



¹⁸² Conflict minerals are also referred to as 3T minerals, indicating tin, tantalum and tungsten, processed from cassiterite, coltan and wolframite ores, from mining areas in the Great Lakes Region.

¹⁸³ Three of the best-known conflict-mineral policies are the American Dodd–Frank Act (2010), the OECD Guidance (2011) and the ICGLR certification manual (2011).

These tensions reached a critical point on the morning of 29 November 2014, when the population of Kakyulu, a village located in the midst of Bukama’s mining areas (see Figure 7.2), mobilised and seized two mineral trucks owned by Bukama-based *comptoirs* that were passing through Kakyulu (see Figure 7.2). Without violence, the villagers offloaded all 1750 kg of cassiterite, carrying it away bag-by-bag. Subsequently, the Kakyulu village chief made a public announcement expressing the village’s discontent over the lack of socioeconomic benefit since the arrival of the *comptoirs*. He stated that the minerals would be kept in Kakyulu and that no trucks would be allowed to pass through the village until the *comptoirs* executed significant social development projects in the territory.

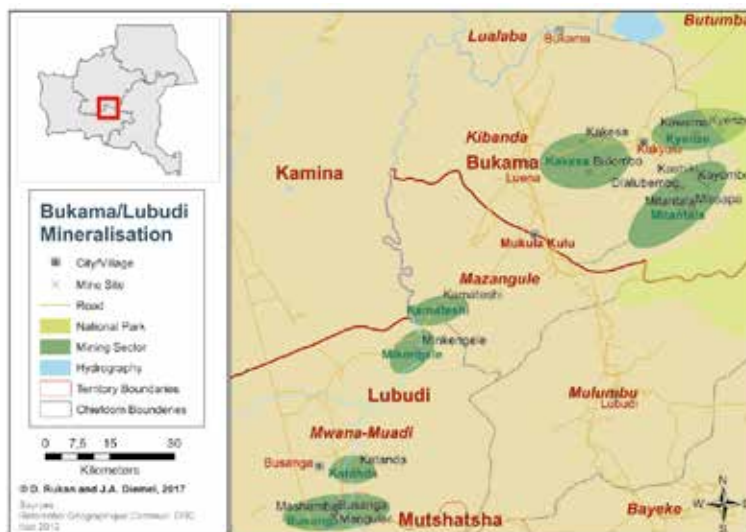
Strikingly, the population, although they were clearly capable of taking a stand and expressing their grievances vis-à-vis the *comptoirs*, refrained from any public action against state agents’ extortive behaviour, despite the serious harassment experienced by mining communities in Bukama. The difference in response to the state agents and *comptoirs* is especially remarkable given that the *comptoirs* also had a positive impact on these communities’ livelihoods, assisting artisanal miners technically, executing social development projects and even taking over governance tasks. Why, then, has the harassment committed by state mining service agents not led to any open resistance in Bukama, while the communities’ discontent with the *comptoirs*’ trading position so clearly has?

This chapter argues that the differences in response to public and private actors resulted from local natural resource governance dynamics that emerged during the implementation of the new regulations on conflict minerals. The present study analysed how this new regulatory framework has affected Bukama’s governance dynamics and the state–society relationships therein. Taking the uprising against the *comptoirs* in Kakyulu and the absence of public action against state mining services as a starting point, this chapter explores the overarching characteristics of Bukama’s mining governance order. Although some work on the reform of artisanal mineral extraction and the trade sector has focused on governance dynamics (Côte and Korf, 2018; Hilson and Potter, 2005; Hönke, 2009), most has centred on the effect on local societies’ livelihoods (Cuvelier et al., 2014; Hilson, 2009; Seay, 2012) or on national-level governance dynamics (Mazalto, 2009). This chapter focuses on local governance dynamics.

Our focus on governance dynamics is highly relevant, as the development models incorporated into the reform interventions assign an important role to the private sector, stressing its responsibility to exercise due diligence and to improve oversight over mineral supply chains more generally. This chapter examines how these intentions regarding the extended role of the private sector have worked out in practice. The chapter approaches the state–society relationship and the state’s governance practices from a moral economy perspective. This approach, popularised by the work of Thompson and Scott in the 1970s (Scott, 1976; Thompson, 1971), allows for the study of the reciprocal yet highly unequal relationship between mining communities and state agents. However, the answer to the puzzle posed above should not be sought exclusively in the relationship between communities and the state. The *comptoirs* have also had a considerable impact on the socioeconomic functioning of Bukama; hence, the state–society relationship is, in significant part, co-determined by the governance role played by these *comptoirs*. Therefore, the present analysis also builds on Hibou’s idea of ‘governance by discharge’ (Hibou, 1999, 2004; see

also Hönke, 2010), including the *comptoirs* as governance actors in the analysis. This approach goes beyond the question of the legitimacy of state institutions, allowing for a better understanding of the effects of the privatisation of mining governance on the Congolese state's position and relations with its citizens.

Figure 7.2. 3T minerals in Bukama territory



The chapter draws on qualitative fieldwork conducted in Bukama Territory and in the administrative hubs of Kalemie and Lubumbashi from 2014 to 2016. Specifically, the findings presented here are based on approximately 100 interviews with artisanal miners, small-scale traders, staff members of *comptoirs*, and civil society and mining authority representatives; observation at mine sites, mineral depots and administrative offices; and document review including statistics, regulatory texts and administrative documents.

The following section outlines the conceptual framework for the analysis of local mining governance in Bukama. The transformation of natural resource governance in Bukama since 2009, when the local-level ramifications of the new regulatory framework began, is then examined. Finally, the chapter concludes by analysing this transformed natural resource governance order and discussing how the arrival of private governance actors has influenced the position of local state institutions and their relationship with the mining community in Bukama.

7.2. Natural resource governance and legitimacy

In exploring the absence of public resistance against local state institutions in Bukama, the concepts of 'the state' and legitimacy take a central position.

7.2.1 The state

'The state' is a complex concept; defined here as a 'pluri-centered and fluid ensemble of institutions, practices and people' (Sharma and Gupta, 2006: 6) operating on different levels and in different directions, and not so much external as rather 'part of society' (Migdal, 2001: 63). For the present study, 'the state' is operationalised by focusing on the branch of the Congolese state active in the governance of Bukama's mining sector. Specifically, this includes three local services linked to the national Ministry of Mines: the *Service d'Assistance et d'Encadrement de Small-Scale and Artisanal Mining* (SAESSCAM),¹⁸⁴ the Mining Division (*Division des Mines*),¹⁸⁵ and the Mining Police (*Police des Mines et des Hydrocarbure*, PMH).¹⁸⁶ Further, two dimensions of 'the state' are combined—'its embodiment of public authority' and 'the notion of the state' (Moore, 1978, quoted in Hoffmann and Kirk, 2013: 11). By studying encounters between state agents and community members, this chapter highlights state agents' practices and discourses, as well as the perceptions and behaviours of citizens toward the state.

7.2.2 Legitimacy

At first glance, it seems logical to draw on the concept of state legitimacy to study the mining sector reforms and their effect on the relationship between Bukama's population and its local state institutions. A legitimacy approach would allow for the study of whether Bukama's mining community treats local state institutions 'as rightfully holding and exercising political power' (Gilley, 2006: 500), and whether 'these communities hold the normative belief that they should obey these institutions' (Papagianni, 2008: 50). The notion of what is 'rightful' to a political community, such as Bukama's mining population, is defined in two ways. The first is through the community's perceptions of the state, or what Beetham (1991: 19–20) and Gilley (2006: 500–503) call 'views of legality and justification'. The second is the community's 'acts of consent' (Gilley, 2006: 504), referring to a community's recognition of and obedience to the state.

However, when applying this approach to the present puzzle, it becomes clear that the concept of legitimacy falls short for understanding the complex relationship between local state institutions and Bukama's mining community. The absence of open resistance against local state institutions could easily be mistaken for legitimacy, as Schatzberg (2001: 2) argues in his work on political legitimacy in 'middle Africa'. Such a conclusion would ignore Bukama's mining population's dissatisfaction with the state's illegitimate functioning despite their continuous endorsement of state authority, as is demonstrated below.

¹⁸⁴ SAESSCAM, established in 2003, provides formalisation and technical support to artisanal miners at the mine site level. At the provincial level, SAESSCAM promotes the development of artisanal mining into small-scale, semi-mechanised mining.

¹⁸⁵ At the mine pit level, the Mining Division is responsible for inspecting both artisanal and industrial mining activities. Its geological department conducts studies, and other departments administer mineral flows, compile production statistics, and authorise mineral evacuation and export.

¹⁸⁶ The Mining Police's main tasks at the mine site level are keeping order, mediating disputes, and addressing smuggling and theft. At the provincial level, they verify the correct handling of minerals and related paperwork, and co-authorise mineral evacuation and export, together with the Mining Division.

The problem with applying the concept of legitimacy to the case of Bukama is that it pertains only to one direction. It highlights how citizens evaluate (and (dis)appreciate) the state and endorse it on a moral level. This contrasts with the present argument that the community's attitudes and actions toward local state institutions in Bukama should not be understood simply as a response to state functioning. Rather, they need to be analysed against the background of a continuous process of interaction among multiple types of actors.

7.2.3 Moral economy

The analysis of interactions among Bukama's governance actors can be accomplished using the concept of moral economy, as it illuminates the broad processes of continuity and change in the relations between social classes (Palomera and Vetta, 2016: 417). This concept thus allows for a historical analysis of local governance dynamics in Bukama, taking into account external events such as the implementation of conflict-mineral reform interventions. Thompson (1971) coined the phrase 'moral economy' in 1971 to describe the food uprisings in England in late 1700s. He argued that these uprisings should not be understood only as a response of the illiterate crowd to rising food prices; rather, these actions reflected a popular consensus on the illegitimate practices of the dominant class. In his application of the concept of moral economy to the resistance of Southeast Asian peasant communities, Scott (1976) strengthened Thompson's groundwork. Both scholars highlighted the reciprocity in relations between a dominant class and its subordinates, describing the moral economy as a set of mutually respected obligations. Within such an 'economy', the powerholder organises public order in exchange for the subordinates' recognition of their authority. Through ongoing social negotiations, the dominant and subordinate classes collectively determine the moral economy and enforce its power and existence.

The concept of moral economy has been used in many studies ever since to analyse the complex relations between economic class and social change (e.g. Cuvelier, 2011b; Moodie, 1986; Olivier de Sardan, 1999). The conceptual framework on moral economy for the present study is based on two particularly relevant works: Moodie's (1986) study of the moral economy of mineworkers and mine managers in Witwatersrand, South Africa, in the 1940s and Schatzberg's (2001) work on political legitimacy in 'middle Africa'. The idea of reciprocity between a dominant and a subordinate class played a pivotal role in both studies. Yet, both authors also highlighted additional aspects important for the analysis of the Bukama case.

Comparing state–society relations in middle Africa with the relation between a 'father-chief' and his children, Schatzberg added an interesting African dimension to the moral economy concept.¹⁸⁷ He highlighted that, in addition to subordinates' obedience, African leaders are often believed to also have the 'right to eat' as compensation for their investments. However, Schatzberg (2001: 26, 149) argued, this appetite is only considered acceptable when the 'father-chief' treats his children well and does not 'overeat'. Thus, Schatzberg explained the notion that it is acceptable for a dominant class to 'eat' off a subordinate class.

¹⁸⁷ Schatzberg used the phrase 'moral matrix' instead of 'moral economy' to describe this relationship.

Moodie's work extended this idea, arguing that there is a balance within each moral economy. His work showed that the dominance of one class does not automatically turn into complete authoritarian rule, as the implicit moral agreement between a community and its leaders demarcates its boundaries. In his description of the moral economy between mineworkers and mine managers in Witwatersrand in the 1940s, Moodie highlighted how mine managers' authority was confined by the level of dominance the mineworkers were willing to accept. Mine managers thus constantly had to balance between keeping the subordinate mineworkers in line but also satisfied, for example by occasionally turning a blind eye to the official rules (Moodie, 1986: 1–3).

Thus, there is a certain balance in how much domination a community will tolerate. If balanced correctly, negotiations will lead to a mutually accepted state of coexistence and collaboration. However, both Moodie and Scott warned readers not to romanticise this relationship or to mistake this consensus for 'a common value system' (Moodie, 1986: 2), or an egalitarian and symmetrical relationship (Scott, 1976: 5).

7.2.4 Privatisation of governance

In many conflict-affected countries and in the DRC par excellence, state institutions are not the sole governing actors. Rather, the central state's territorial reach is limited, public administration is largely malfunctioning (Trefon, 2009) and basic services traditionally associated with the state are provided by private actors such as rebel groups, (Meagher, 2012; Raeymaekers, 2010), the church or transnational mining companies (Hönke, 2009).

This complex, pluralist institutional landscape has to be taken into account when explaining the decision of communities in Bukama to refrain from public action against local state services. What is the effect of non-state—and in the specific case of Bukama more specifically, private—governance on the moral economy? How does this affect the position of the state and its relationship with its citizens? Hibou's work is useful here to better understand the influence of the increasing privatisation of the public sphere on the position of the African state.

In the late 1990s and early 2000s, much scholarly work was devoted to studying the effects of large-scale economic changes such as structural adjustment plans and economic globalisation on the functioning of the state in developing countries (e.g. Herbst, 1990; Strange, 1996; von Trotha, 2001). These studies described how such changes resulted not only in the privatisation of state enterprises, but also in a weakening of the state through the privatisation of security and the liberalisation of administrative services. Likewise, in work on the liberalisation of the mining sector, many scholars have argued that privatisation has resulted in the 'informalisation' of the regulatory system (Campbell, 2009; Hilson and Potter, 2005).

In contrast to these bodies of work, Diouf (1999) and Hönke (2010), as well as Hibou (1999, 2004), have claimed that these developments do not necessarily lead to a 'decline of the state' (Strange, 1996) or the primacy of private over public. They contest the idea of state weakness as a result of privatisation and criticise the literature arguing this as flawed by a normative stance; a focus on the negative; and an overemphasis on the loss of state legitimacy, the reduction of state control and the erosion of administrative capacity (Hibou,

2004: 1–2). Hibou proposed describing these developments as ‘governance by discharge’, considering how the state can be deployed in a different fashion. By delegating administrative functions to private actors, the state indirectly manages to consolidate its (extractive) authority in peripheral areas where it does not have exclusive and total control, while avoiding the costs of an expensive major administrative apparatus (Hibou, 2004: 20). In the same vein, in their study on gold mining regimes in Burkina Faso, Côte and Korf (2018) argued that, instead of signifying a retreat of government regulatory authority, privatisation and informalisation in Burkina Faso’s mining sector are actually expressions of a plurification of regulation. Additionally, Hönke’s fieldwork on transnational mining companies in Katanga demonstrated that frictions between various governance actors shows changing political topographies, rather than state weakness, political disorder or disappearing states (Hönke, 2010).

This indirect mode of governance through delegation, Hibou argues, is kept well under control by the state and is characterised by volatile short-term arrangements that are often renegotiated repeatedly. The resulting instability is ‘not a result of poor management or inadequacy’, but rather an intended characteristic that lies ‘at the heart of politics, creating and maintaining conditions for the exercise of power’ (Hibou, 2004: 16). The delegation of sovereign tasks also blurs the boundary between public entities and private intermediaries and creates mutual dependencies; ‘the state needs intermediaries to ensure revenue and maintain political order, while these intermediaries depend on the state to carry out their functions’ (Hibou, 2004: 17).

7.3 Consolidation of an unequal moral economy

7.3.1 Pre-2009: customary and private natural resource governance¹⁸⁸

The exploitation of Bukama’s cassiterite and coltan deposits began during the colonial era, when Belgian companies engaged in the industrial extraction of cassiterite at mine sites in Bukama. Then, in the early 1960s, after Congo became independent, its mining sector was nationalised (Mazalto, 2009: 209), and the new state-owned mining company that took over Bukama’s mining concessions (*Société Générale des Carrières et des Mines*) failed to continue large-scale mineral extraction. Artisanal mining in Bukama Territory started in the late 1980s and grew to serious proportions in the early 2000s, when mineral traders from the neighbouring Kivu provinces became interested in the area.

Mining activity was scattered throughout the territory, and there was no significant interference from state mining services. However, this is not to say that mining occurred in a governance vacuum or that it was unregulated. At the local level, oversight and control over

¹⁸⁸ This section is based on interviews with the *Grand Chef de Kibanda*, SAESSCAM personnel, artisanal miners, *negociants* and village elders in the villages of Makula-Kulu, Kakyulu, Kyenze and Luena (September 2014–April 2016).

mining activity was organised by *comités de creuseurs* (committees of artisanal miners that were annually elected by popular vote to organise the mining population and their extraction work). Local customary authorities also played a significant role in governing access to Bukama’s mining areas, mediating conflicts and gathering people to start mineral extraction. According to customary law, *chefs de terre*¹⁸⁹ held a *droit de terre* over their lands, meaning that these chiefs had the right to tax all types of production on this land. As a customary chief in Bukama explained:

If a fisherman catches 10 fish, he is obligated to pay three of those fish to the *chef de terre* on whose land the river is located. The same goes for artisanal miners who destroy woodlands and make the land unworkable for agriculture.¹⁹⁰

In Bukama, each Saturday, artisanal miners paid a tax of 10% of their weekly production in the form of small tomato tins filled with minerals to the representatives of the *chef de terre*. In exchange for this tax, the *chefs de terre* were expected to organise access to mining areas and to mediate conflicts. As in virtually all African states, under colonial rule, Congo became characterised by an administrative structure that was ‘bifurcated’ along urban/modern–rural/traditional lines; here, customary and civil authority coexisted (Mamdani, 1996). After independence, this dual legal structure continued to exist, as the Congolese government used customary structures to exercise control over the rural population (Vlassenroot and Huggins, 2005).

Until the early 2000s, the governance of artisanal mining in Bukama remained rather elementary, with customary chiefs being the only authority intervening in the sector. This was further developed around 2005, when Bashi¹⁹¹ mineral traders from the Kivu provinces settled in Bukama (for a more elaborate description of the role of Bashi traders in the Katanga province, see Iguma, 2017). They skilfully organised mineral trade routes between Bukama and the Kivu provinces, extended Bukama’s extraction potential by setting up pre-financing systems¹⁹² with miners’ teams, and turned artisanal mining into an important livelihood for much of Bukama’s population.

From the late 1980s to 2009, this established moral economy between the *chefs de terre*, Bashi traders and Bukama’s population remained largely intact and functional, despite seemingly significant changes like the introduction of the *Congolese Mining Code* in 2002 and the opening of state mining services in Luena in 2006. Moreover, this moral economy also seemed to be in balance. There were unequal economic power structures, as Bashi traders charged miners for their ‘sponsorship’, and *chefs de terre* imposed high taxes or used superstition to enforce obedience among the mining population. Nonetheless, Bukama’s mining population described this period as prosperous:

¹⁸⁹ *Chefs de terre* (land chiefs) are the lowest-level chiefs in the Katangese customary power structure, which ranges from the ‘*terre*’ (land) as the smallest entity over which customary leaders hold authority to the ‘*groupement*’ (group) and finally the ‘*chefferie*’ (chiefdom).

¹⁹⁰ Interview with the *Grand Chef de Kibanda*, Makula-Kulu, 24 February 2015

¹⁹¹ A South Kivu ethnic group

¹⁹² *Creuseur* teams often have to work for an indeterminate amount time on an artisanal mine pit before it becomes profitable (if it ever does). As these teams usually do not have the financial means to invest in this exploration work, *negociants* offer financial support in the form of loans to be repaid after the mine pit starts to become productive.

Mineral exploitation went well before 2009. The *comités des creuseurs* made it easy to communicate our complaints to the *chefs de terre*. We felt well represented.¹⁹³

Small-scale mineral traders (*negociants*) amongst which the Bashi, working in the territory since the early 2000s also recounted good memories of the pre-2009 period: ‘The collaboration with the chiefs was good, production was high, and harassment was almost non-existent’.¹⁹⁴

7.3.2 The state and the transformation of a moral economy¹⁹⁵

After 2010, the natural resource governance dynamics in Bukama changed significantly as a result of new requirements for the 3T mineral trade. The Congolese government introduced new legislation aiming to extend state oversight over mineral supply chains and to increase tax revenues from the mineral trade. Simultaneously, United States and European Union legislation required companies sourcing from the DRC and surrounding countries to verify the origin of their minerals to ensure that their extraction did not involve human rights violations or conflict (European Union, 2017; US Congress, 2010). The Organization for Economic Cooperation and Development (OECD) and the International Conference on the Great Lakes Region (ICGLR) launched guidelines for supply chain due diligence and a certification manual assisting mineral buyers in meeting the new requirements (ICGLR, 2011a; OECD, 2011). Further, in 2011, the need for downstream companies sourcing from the DRC to determine the origin of their minerals led to the launch of a mineral traceability scheme, the ITRI¹⁹⁶ Tin Supply Chain Initiative (iTSCi), throughout Katanga, including in Bukama.

7.3.2.1 Increased presence of state agents

The state mining services were already settled in Bukama far before 2011: SAESSCAM and the Mining Division set up office there in 2006, the Mining Police arrived in 2009. However, with only a handful of agents and no means of transportation to cover the entire territory, the work of these services consisted of only simple administrative and taxation tasks at Luena level. With the launch of iTSCi, however, this work was extended significantly. State agents working for SAESSCAM and the Mining Division began to play an increasingly important role in mineral trade administration, tagging each mineral bag with a unique barcode and noting the weight and trading parties in designated logbooks, both at mine sites and in mineral depots in Luena. The Mining Police widely installed agents at mine site entrances and along mineral transportation routes to monitor the flow of minerals and ensure each bag of minerals was correctly tagged.

¹⁹³ Focus group with *creuseurs*, *negociants* and village elders, Kakyulu, 25 February 2015

¹⁹⁴ Interview with Luena-based *negociants*, Luena, 5 October 2014

¹⁹⁵ This section is based on interviews and focus groups with public officials, *comptoirs*, cooperative representatives, a syndicate member, *negociants*, village elders and artisanal miners in Kyenze, Kakyulu, Makula-Kulu, Luena and Lubumbashi (September 2014–March 2015), as well as the private notes of an attendee at the September 2014 Luena *comite local de suivi* meeting (local stakeholder meeting).

¹⁹⁶ International Tin Research Institute

The request for increased state oversight over mineral flows thus required the state mining services to increase their workforce and have agents permanently based in the mine camps to make the verification of the minerals’ origin possible. Table 7.1 demonstrates that state mining services staff deployment in Bukama increased by 500% from 2006 to 2014. In a mine site like Kyenze, Bukama’s largest cassiterite mine, this change in state involvement was even more drastic. In 2006, a single Luena-based state agent would visit Kyenze once a month; by 2014, 15¹⁹⁷ state agents were permanently settled at the mine.

Table 7.1. Number of staff members in the state mining services in Luena¹⁹⁸

	2006	2014
SAESSCAM	4	20
Mining Division	3	18
Mining Police	No figures available	

As the number of state agents in Bukama increased, their governance tasks also became more extended, going far beyond activities associated with the iTSCi scheme. State agents gradually became involved in the more general governing of mining communities, organising access to mine sites (Diemel, Forthcoming b) and regulating the work and lives of miners’ communities.

7.3.2.2 Increased presence leads to increased harassment

State services such as SAESSCAM provided ‘technical assistance’ to miners, consulting them concerning dangerous situations like trees hanging over mine pits or tunnels that were too deep, and mediated in disputes over access. However, these state services also seriously restricted the mining population’s movement and liberty of operation by putting up roadblocks at mine site entrances to check for smuggling and requiring miners to pay for identification cards. The increased presence of state service agents in Bukama also resulted in increased tax pressure and harassment in these communities.

As proper ‘father-chiefs’ (Schatzberg, 2001) Bukama-based state agents did not only rule over their ‘children’; these agents also ‘ate’ from their mining production. A part of this ‘eating’ was regulated by law and consisted of prescribed fees paid by the mining population to SAESSCAM and the Mining Division for the opening of mine pits, for example, or for identification cards (see Table 7.2). However, a large part of the state agents’ appetite, to paraphrase Schatzberg, went beyond the legal regulations. As in many other parts of the DRC (see, e.g. Englebert, 2003; Rubbers, 2007; Trefon, 2009), public services are not readily provided by state mining services in Bukama. The provision of public services is often instrumentalised, or ‘privatised’ as Trefon (2009: 12) puts it, and public services that should be offered free of charge are sold by public servants (Cuvelier, 2011a) for personal enrichment or survival. This results in endless bargaining with the population, which was

¹⁹⁷ These 15 civil servants include two SAESSCAM agents, one Mining Division agent, 10 Mining Police agents and two Intelligence Service agents.

¹⁹⁸ Based on interviews with the directors of both state mining services in Luena, September 2014

commonplace between the mining population and the state services in Bukama. This bargaining often worked out to the disadvantage of the miners and *negociants*. For example, SAESSCAM agents at Bukama's mine sites loosely interpreted tax regulations, routinely taxing miners 200% of the official fee for 'identification forms' and overcharging *negociants* by as much as 50% for mineral exit fees.

Aside from these cases of 'bargaining', the mining population has also been faced with more direct forms of *tracasseries*, a generic term with a meaning close to 'harassment' in English used by the Congolese to describe civil servants' ways of complicating citizens' lives and work, including mismanagement, extortion, illegal taxation and other unjust actions. In Bukama, cases of unofficial interference of this kind by state and semi-state agents included, for example, unofficial roadblocks where state agents illegally taxed *negociants* for their passage, as well as state agents' expropriation of well-mineralised pits from the local mining population, as was reported by ITRI from 2013 to 2015 (ITRI, 2015b: 17, 59, 65, 95).

In the 1960s and 1970s, Congolese state agents received monthly salaries and even additional holiday bonuses, funeral allowances and marriage gifts. In contrast, today's civil servants' monthly wages, ranging from USD 15 to USD 30, are not paid on a regular basis and certainly do not cover basic needs (Trefon, 2009: 16). To complement their meagre or non-existent salaries, state officials in Bukama exploited commercial activities: Some ran small shops in the mine camps, and others positioned themselves as businessmen in the mineral trade. A Mining Division agent openly explained during an interview: 'I own several mine pits and financially sponsor three mining teams who work for me'.¹⁹⁹

In the Kyenze mine site, owning and running mine pits was a popular side business for state agents. This activity created a conflict of interests and also caused serious clashes with the local mining population. ITRI's 2012 incident report noted that:

In Kyenze PMH teams are allegedly going into the mines to steal minerals at night. There was a confrontation between the PMH OPJ [*Officier de la Police Judiciaire*]²⁰⁰ and *creuseurs* on guard. The PMH officer fired shots in the air to scare them off, and fired at a *creuseur*, missing him.

The mining population of Bukama also recalled similar incidents:

We had several mine pits in Kyenze that produced really well, but SAESSCAM agents came to close them down. They used red tape and stated that our tunnels were too dangerous, as we had dug them too deep. When we came back three days later, we saw that our mine tunnels were reopened and managed by the SAESSCAM agents who had previously closed them down.²⁰¹

7.3.2.3 No resistance to extortive local state services

The increased state presence and its associated large 'appetite' clearly weighed heavily upon Bukama's mining population. Official taxes increased significantly, with FC²⁰² 73,000 per

¹⁹⁹ Interview with *Division des Mines* agent and *Agence Nationale de Renseignement* (ANR) agent, Kyenze, 21 February 2015

²⁰⁰ The OPJ is the highest-ranking police officer on the ground. The OPJ has the authority to make arrests and reports to the judiciary departments.

²⁰¹ Focus group with *creuseurs*, *negociants* and village elders, Kakyulu, 25 February 2015

²⁰² Congolese francs

year added on top of the 10% customary tax following the settlement of state services in Bukama; at the time of the research, this was equivalent to one or two months of the average miner’s income (see Table 7.2).

Table 7.2. Taxes paid at mine site level by artisanal miners before 2006 and in 2014

Authority	Type of Tax	Before 2006	2014 ²⁰³
SAESSCAM	Identification form	-	FC 3,000/year
SAESSCAM	Mine pit start-up form	-	FC 45,000/year
Mining Division	Miner’s card	-	FC 25,000/year
<i>Chef de Terre</i>	Customary tax	10% of mineral production	10% of mineral production
Total		10% of mineral production	FC 73,000 + 10%

These increases in tax in addition to the *tracasseries* complicated the position of Bukama’s miners thus significantly. Miners said that they felt abandoned by the state, which should have had their interests at heart. A group of artisanal miners explained this during a focus group in Kakyulu as follows:

We have lost our hope [...] SAESSCAM and PMH agents make it very difficult for us to do our work [...] The state does not represent us, nor defends our rights. No one does.²⁰⁴

Given this situation and the position taken by the population, one would expect public resistance to the state agents’ predatory behaviour, but no such public action was observed. The unwillingness of Bukama’s mining population to engage in public protest can in part be explained by the continuous ‘negotiation game’ between state agents and the mining population. Approaching this relationship from a moral economy perspective, we see that, despite their *tracasseries*, the state agents’ authority was clearly confined by the level of dominance the mining population was willing to accept (Moodie, 1986: 3). In Bukama, state agents managed to keep the moral economy in balance by ‘compensating’ for their ‘unhealthy appetites’. They managed to accommodate the population by deviating from the official rules (see Geenen, 2015) by signalling the arrival of SAESSCAM inspectors checking miners’ identification papers, allowing miners to open mine pits without paying a mine pit start-up fee until the mine became productive, permitting minerals from illegal mine sites in the proximate national parks to enter into legal trading circuits, and letting *negociants* pay only half of the USD 500 *negociant* fee.

Using these tactics, consciously or not, SAESSCAM and Mining Division agents put the mining population in what Rubbers describes as ‘a position between legality and illegality’, making them dependent on clientelist relationships with state agents and strengthening the moral economy between these actors (Rubbers, 2007: 320).

²⁰³ At the time of the fieldwork, the exchange rate was approximately FC 1.000 = USD 1.

²⁰⁴ Focus group with *creuseurs*, *negociants* and village elders, Kakyulu, 25 February 2015

7.3.3 Bukama's dependence on private actors²⁰⁵

The typical Congolese state–citizen relationship between local state mining authorities and Bukama's mining communities was significantly affected by the installation of *comptoirs* in the territory.

7.3.3.1 Basic service provision by comptoirs

New requirements for mineral trade and the verification of origin encouraged *comptoirs* from Lubumbashi to open locations in 3T mining areas. In June 2009, the Indian company, Mining Mineral Resources (MMR), was the first *comptoir* to open in Luena. This was followed by the Chinese SinoKatangaTin (SKT) and the Lebanese Opera Mining in 2011 and by the Indian Chemicals of Africa (CHEMAF) in 2014. This installation of *comptoirs* in closer vicinity to the mineral extraction allowed them to increase their oversight over mineral supply chains, but it also had a significant effect on socioeconomic development, local trading patterns, governance of the artisanal mining sector and, ultimately, the functioning of local state mining services in the territory.

The decision to settle in Luena and other mining areas throughout the province significantly increased the *comptoirs'* visibility to the mining communities and personalised the interaction between the two parties. This was reflected in the *comptoirs'* engagement in the socioeconomic development of Bukama's mining communities. In compliance with the legal requirements of the *Congolese Mining Regulations* of 2003, the *comptoirs* submitted social development plans to the Territory Administrator Office upon their arrival in Bukama, and some seriously committed to these sustainable development plans. For example, MMR improved the 25 km Kakesa–Kakyulu road, including two bridges, and renovated the Jadot primary school in Luena in 2012.

Private *comptoirs'* engagement in basic service provision was also established through day-to-day practices at the mine sites. Some *comptoirs*, such as CHEMAF, provided rudimentary medication to the mining communities on their concessions, and MMR transported water from nearby rivers to mining communities on its Kakesa concession during the dry season. As they were regularly or even permanently present, some *comptoirs* developed personal relationships with the population, resulting in, for example, MMR personnel attending funeral ceremonies and MMR paying survivor benefits after cave-in accidents such as the one in October 2014.

In some cases, MMR's assistance to the mining communities went a step further. Acknowledging the dangerous work conditions in the underground tunnels and the often highly unpredictable production revenues for artisanal miners, MMR actively facilitated mineral exploration at the Busanga and Kakesa mine sites by providing geological information to artisanal miners, constructing mineral washing facilities and removing topsoil (*decouverte*).²⁰⁶ This technical assistance not only reduced the amount of physical labour

²⁰⁵ This section is based on a focus group with *creuseurs*, *negociants* and village elders in Kakyulu (25 February 2015) and multiple interviews with *creuseurs*, *negociants*, COMIDEK cooperative coordinators, SAESSCAM agents, the *Grand Chef de Kibanda*, the head of iTSCi Luena operations, a syndicate representative and managers of MMR, SKT and CHEMAF in Lubumbashi and Luena, and at the Busanga, Kibuto, Bulombo and Kyenze mine sites (March 2013–April 2016).

²⁰⁶ *Decouverte* was performed only at the Busanga mine site.

required from the miners; it also significantly increased production levels, providing the miners with a significantly higher income, as observed in the Busanga mine camp, where extensive electrification and the presence of numerous motorbikes and refrigerated bars clearly indicated higher living standards than other mining communities in the region.

7.3.3.2 Dissatisfaction and uprising

Nevertheless, the extended role of *comptoirs* in service provision did not result in an appreciative and welcoming population. Rather, the Bukama population decided to publically revolt against these private actors. Bukama’s mining communities resented the changing mineral trading patterns resulting from the *comptoirs*’ arrival and their unilateral price-setting:

We have lost our own way of doing business. We can no longer freely decide who to sell our minerals to. There are roadblocks everywhere!²⁰⁷

Additionally, the communities expected to benefit more from the installation of these private stakeholders in their territory:

We see trucks loaded with tons of our minerals pass by the village on a weekly basis. They [the *comptoirs*] make a large profit while they destroy our bridges and deteriorate our roads, yet the living conditions in the villages have not improved over the last years. We are still hungry.²⁰⁸

Motivated by the fear that, because of falling mineral prices at end of 2014, the *comptoirs* would leave the territory without keeping their social development promises, the population of Kakyulu decided to take action. As was mentioned above, on 29 November 2014, a group of men stopped two heavily loaded mineral trucks owned by SKT and MMR going from the nearby Mitantala mine site to Luena. The group offloaded all 1750 kg of cassiterite, presenting a document explaining their frustration about the lack of social development and stating that the minerals would be kept in Kakyulu until the social development projects were started. The incident quickly ended when state agents arrived in Kakyulu and arrested several of the villagers involved in the incident. A few days later, both MMR and SKT committed to new social development projects, including the rehabilitation of a part of the Luena–Kakyulu road and the reconstruction of the bridge between Kakyulu and the Mitantala mining area (see Map 2: Mineralisation in Bukama/ Lubudi on page xvi). Both *comptoirs* also delivered street lighting poles and construction materials for the rehabilitation of Kakyulu’s school as a demonstration of their goodwill. However, despite this immediate response after the incident, it took several months—until the end of the rainy season in April 2015—before the rehabilitation projects commenced. During the following months, the situation in Kakyulu remained calm: No further protests occurred, and mineral transport between Mitantala and Luena resumed as usual.

The villagers’ expressing their expectations concerning the improvement of their socioeconomic conditions only toward private actors—and not the Congolese state

²⁰⁷ Focus group with *creuseurs*, *negociants* and village elders, Kakyulu, 25 February 2015

²⁰⁸ Idem

authorities—seems paradoxical, especially considering the extortive behaviour of state agents and the fact that *comptoirs* actually provide some services, albeit to a limited extent. However, this situation appears more logical when it is considered in a broader historical perspective.

Comptoirs providing basic services in Bukama and the population's reliance upon them to do so are not exceptional. In fact, this practice has become embedded in the province's governance structures over the last century. The Belgian mining enterprise, *Union Minière du Haut-Katanga*, Congo's economic motor during the first part of the 20th century, played a determining role in the socioeconomic development of the province and the social functioning of its population. Instituting an all-embracing 'cradle-to-grave paternalism' (Schatzberg, 1988: 88), the company significantly impacted many aspects of its workers' daily lives, providing housing, schooling, health care and recreational activities (Dibwe dia Mwembu, 2001; Rubbers, 2013). The provision of these services went hand-in-hand with various forms of social engineering, aiming to redefine family values, putting the focus on monogamous marriages and small households as the cornerstones of society (Cuvelier, 2011b: 73–81). This model was sustained by the post-independence parastatal *Société Générale des Carrières et des Mines* after the *Union Minière du Haut-Katanga* was nationalised in 1967. The norms embedded in this model continue to influence workers' and communities' expectations in their relationships with the private mining companies that have come to Katanga since the early 2000s. These private enterprises are left with little choice but to take these expectations into account, adding to the paternalistic dynamics (Hönke, 2012).

7.3.4 Natural resource governance by discharge

It is not only Bukama's local mining population that relies upon the *comptoirs* for basic service provision. The Congolese state also depends on these private actors in governing the mining sector. The responsibility of local state authorities in Bukama to provide basic services has been partly outsourced to private actors, who are obligated to invest in social development projects or to pay for funeral expenses and accident compensation fees. This practice bridges a serious gap left by the Congolese state authorities.

Additionally, the Congolese state depends rather heavily on private actors for the financial functioning of its local services in Bukama. The central state has not provided sufficient financial support for the extension of the local-level state apparatus necessary to improve the administration of mineral flows. The financial functioning of the Bukama Mining Division branch is a good example of the central state's financial detachment. When the fieldwork for this study was conducted, all of the 18 Mining Division agents were registered as *nouvelles unites* (literally, 'new units') (Division Provinciale des mines du Katanga/Nord, 2014: 45–46, 56), indicating that none of these agents were on the national Ministry of Mines' payroll. Instead, they all depended on local tax revenues for their remuneration. The seriousness of the Bukama Mining Division's lack of finances is clear from the organisation's estimated tax income of only USD 259.90²⁰⁹ for the month of

²⁰⁹ This calculation of the Directorate's income is based on various taxes levied on 37,775 tons of cassiterite and 0.5 tons of coltan, as listed in *Note Circulaire* № 10 26/31bisCAB/GP/KAT/2008.

October 2014 (Service des Mines Bukama, 2014). As the head of the Bukama Mining Division argued in his annual report to the provincial office in Kalemie (Service des Mines Bukama, 2012), this budget was clearly insufficient to cover the Division’s expenses, including the remuneration of its extended staff and general operating costs, such as office infrastructure and motorbikes.

The permanent lack of operational budget for the local state apparatus has resulted in a situation where the Congolese state expects private actors to finance the public state mining services, paying monthly ‘*primes de comptoirs*’²¹⁰ to state officials to supplement or completely replace the ‘*primes de bureau*’.²¹¹ State agents thus depend heavily on *comptoirs* for their livelihoods, as a Bukama Mining Division agent explained in 2014:

Now that CHEMAF has stopped buying minerals in Bukama, they have also stopped paying my *prime de comptoir*. I have no income. The chief of office sent me off to CHEMAF when I explained the situation, saying there was nothing he could do for me. The Indian [CHEMAF manager] told me they will be back in a couple of months. But I have to provide for my family today!²¹²

In addition to the payment of ‘salaries’, *comptoirs* have also facilitated local state services in other ways. At the Busanga mine, for example, MMR constructed office space for the Mining Police at its mine camp and provided local SAESSCAM agents with accommodation in tented camps. Transport for local state agents has also often been provided in Bukama, with CHEMAF donating two motorbikes to the SAESSCAM office in Bukama and MMR taking SAESSCAM agents, who lack their own means of transport, along when they travel to their mine concession.

A ‘governance by discharge’ (Hibou, 2004) structure emerged in Bukama after 2009. State governance responsibilities have been ‘outsourced’ to private actors, who have started providing services in a way that complements the state’s governing, rather than competing with the state. These dynamics of discharge were not a deliberate strategy (Hibou, 1999: 11) emerging from clearly demarcated or planned requests from either side. Instead, this situation arose out of the necessity of a negotiated solution for the mismatch between new national and international requirements for formalised trade and limited local-level financial support for the implementation of the reforms.

Additionally, these politics of discharge proved to be an effective way for the central Congolese state in Kinshasa to ensure revenue collection while contributing minimal investment and effort to the local state functioning. With the *comptoirs* taking on significant costs to ensure the state’s functioning, the central state maintained its power and continued to tax Bukama’s mineral resources, despite the state’s limited regulatory authority in the territory. In October 2014, the central state collected a total of USD 3,844 in local tax revenues from Bukama—almost 15 times the Bukama Mining Division’s budget for that month (USD 259.90).

²¹⁰ Fees paid by *comptoirs*

²¹¹ Salary paid by the state

²¹² Interview with Mining Division agents, Kyenze, 23 March 2015

7.4 Private sector involvement and the legitimacy of the state

Artisanal mining communities in Bukama have seen their position change drastically and deteriorate over the last decade. New international requirements concerning the determination of mineral origins led to a rather abrupt transformation of the territory's moral economy concerning 3T mineral extraction and trade. The reciprocal relationship between the mining communities and customary leaders was altered significantly by the settlement of new actors in the territory. First, the increased state apparatus in the territory to check and administer the mineral trade resulted in added tax pressure and increased *tracasseries*, which weighed heavily on the population and made the moral economy inherently unequal. Second, the establishment of *comptoirs* in the area seriously restricted mineral extraction and trade options for the communities. However, these *comptoirs* also introduced social development projects, offered simple technical assistance in mineral extraction and paid survivor benefits after mining accidents. Paradoxically, however, the population decided to publicly resist these *comptoirs*, while silently enduring the harassment of the extended local state apparatus. This chapter posed the question of what explains the different positions vis-à-vis these two powerholders.

Part of the answer to this question can be found in the historical governance dynamics and state–society relationships in the DRC. Decades of malfunctioning state administration, ‘instrumentalised’ basic service provision and endless bargaining with public servants over regulations (Englebert, 2003; Rubbers, 2007; Trefon, 2009) have lowered the population's expectations of the state and accustomed them to predatory behaviour. Simultaneously, the history of corporate paternalism has led the population to expect the private sector to make significant efforts to improve socioeconomic conditions in Katanga (Dibwe dia Mwembu, 2001; Hönke, 2012; Rubbers, 2013; Schatzberg, 1988).

In addition to these historical state–society–private sector relationships, another part of the answer can be found in the shifting governance dynamics caused by the arrival of private actors in Bukama. The settlement of *comptoirs* near the mine sites has facilitated the Congolese state's ‘discharge’ of governance tasks, demanding that the private sector contribute to (and even directly pay for) the state's functioning. This ‘governance by discharge’ structure has allowed the central state to refrain from engaging in Bukama and to avoid investing in the extension of the local-level bureaucratic apparatus needed to meet new national and international mineral trade and tracking requirements.

Both communities and public servants have thus become dependent on private companies as service providers and governing authorities. These new dynamics have contributed to a serious absence of central state engagement at the local level and allowed for the extension of a highly extortive moral economy and related injustices. In that sense, it is not the case that these large-scale, exogenous circumstances have brought Bukama's moral economy out of balance, as other scholars have described (Moodie, 1986; Scott, 1976). Rather, these exogenous factors (i.e. conflict-mineral interventions and the related installation of *comptoirs* in Bukama) have resulted in the extension and consolidation of an already

unequal moral economy and its related injustices through the interference of private actors. This has occurred in two distinct ways.

First, private sector interference has facilitated local state functioning in Bukama, as the examples of 'salary' payments and the provision of transport to state agents demonstrate. However, these practices have also ensured the continuous presence of a large local state apparatus in Bukama and have therefore indirectly facilitated and extended this apparatus' extortive governance practices, such as illegal taxation and mine shaft expropriation. One could even argue that the private sector's provision of basic services has made the mistreatment by public state servants slightly more bearable for Bukama's communities.

Second, *comptoirs* taking over some governance tasks has encouraged a further shift of expectations and sense of accountability away from the state and toward the private sector among Bukama's mining communities, as the Kakyulu incident demonstrates. This does not mean that conflict-mineral interventions, in themselves, have caused mining communities to be dependent on private companies in Bukama. Looking towards private companies instead of the state authorities for basic service provision and social development is strongly embedded in Katanga's and Bukama's mining history, and these dynamics existed long before the implementation of conflict-mineral interventions. It is also not clear that the state's natural resource governance would have functioned better or been less extortive if the private sector had not taken on these tasks. However, the privatisation of natural resource governance in Bukama risks deepening the dynamics described here. Unable to escape these deep-rooted patterns, the private sector risks legitimising the lack of central state engagement and facilitating perverse local state practices. This raises questions about the accountability of the private sector and its responsibility in the socioeconomic development of mining communities. To what extent should the private sector respond to demands from the Congolese state to facilitate its functioning, and, most importantly, could the private sector play a different role to help restore balance in the moral economy? These questions should be central in future research on state–society relations in the Congolese mining sector.

Photo: Jose, A. Diemel, January 2018, inhabitants of an artisanal mineworkers' village, in Kambove district, Haut-Katanga, DRC



Conclusion

8.1 Summary of the research

This dissertation concerns the effects of conflict-mineral reform interventions implemented throughout Congo's tin, tantalum and tungsten (3T) mineral areas over the last eight years. These reforms aimed to create more oversight over the Congolese mineral trade to prevent its revenues from financing conflict. This study examined how these interventions became negotiated into Congo's local and provincial realities of limited statehood by and among multiple stakeholders, asking, most importantly, what traces this negotiation of policy interventions has left on Congolese natural resource governance. This contrasts with other, more restrictive policy evaluation studies that have focused on the effectiveness or successful implementation of 'conflict-mineral' policy interventions and the related question of whether they have reduced conflict.

In studying these effects and the traces left behind by the conflict-mineral interventions, the present research aimed to develop insight into the governance practices, relations, arrangements and, ultimately, orders that are emerging in southern Congo as a result of conflict-mineral policy interventions. Through extensive longitudinal data collection on policy implementation in the mineral-rich territory of Bukama from March 2014 to May 2016, this study aimed to make a contribution to the academic debates (see Section 8.3)

- on policy analysis;
- on governance in conflict-affected settings characterised by limited statehood; and
- on conflict-mineral policy debate in more general terms.

Additionally, it aimed to outline the policy implications of these empirical findings for mining sector reform in the DRC.

To achieve these research objectives, this study has approached policy by combining insights from the bodies of literature on interpretive policy analysis, development sociology and policy anthropology. In the present research, policy is perceived as a fluid process with a social life of its own (Colebatch, 1998; Mosse, 2004), acknowledging the agency of both the implementers and the recipients of policy to influence the outcome of policy (Hilhorst, 2003; Long, 2001), as well as its multiple and sometimes contrasting meanings (Yanow, 2012).

For the analysis of governance, this research built upon a body of literature describing the generally 'messy' ways in which African societies cope with limited statehood—what is called 'governance from below' by Hoffmann and Kirk (2013). More precisely, the present research took inspiration from the work of Lund (2006a), Raeymaekers (2007) and Colebatch (2009a), defining governance as a spontaneous and continuous negotiation process through

which state and non-state actors organise to manage public resources and accomplish a certain governance order. The research drew on Hagmann and Péclard's (2010) analytical framework of 'negotiated statehood' to study the daily practices and interactions through which conflict-mineral policy becomes negotiated into Congolese natural resource governance realities.

Methodologically, this study is grounded in the ethnographic tradition. Aiming to cover the implementation of conflict-mineral policy, this study's 'ethnography research site' extends beyond a single site or group of actors. Instead, it follows policy as the theme connecting various research sites along the 3T mineral supply chains in Katanga, stretching from the coltan and cassiterite mines of Bukama territory, to the mineral trading hub of Luena, to the mineral export depots and administrative offices of Lubumbashi and Kalemie.

8.2 General conclusions

The main objective of this research was to provide insight into the processes through which conflict-mineral policy becomes negotiated into Congolese governance realities, as well as the outcomes of those negotiations. This was translated into the following central research question:

How have 'conflict-mineral' interventions affected Katanga's 3T natural resource governance and the relative position of the Congolese state therein?

This section formulates an answer to each of the related specific research questions posed in the introduction to this dissertation.

1. *How do conflict-mineral policies frame the problématique of conflict minerals, and which assumptions are interwoven into the policies about the problem, its proposed solution and the context in which the policies are intended and expected to work?*

Chapter 4 interrogated several of the main policy documents to grasp the policies' nature, seeking to understand how policy makers problematised the issue of conflict minerals, the solutions they proposed and the type of actors they identified as contributors to the problem, affected groups or problem solvers.

Based on this interpretive policy analysis, this dissertation concludes that these policies' rather narrow focus on mineral supply chains highlights how conflict-mineral policy still seems to perceive the mining sector as the main contributor to Congo's conflict, albeit *implicitly*.

This problematisation also prioritises militarisation of the mineral trade and extraction, a characteristic specific to the mining sector of the conflict-ridden Orientale province and the Kivus, over other problematic sectoral issues. Chapter 7 highlights how the 3T mining sector of the relatively quiet Katanga province is characterised by other issues that are not related to conflict, such as extortive taxation practices and mine pit expropriations by local state officials. These sectoral issues certainly also deserve policy makers' attention, as they weigh heavily on Katanga's mining communities and seem to have become extended

since the introduction of conflict-mineral interventions and the related extension of the local state apparatus. Claude Iguma (2017) comes to a similar conclusion, researching the impact of conflict-mineral reforms in Kalemie (Northern Katanga), stating that ‘these reforms are the driving force behind the emergence of new conflicts’, which he labels ‘reform conflicts’ (Iguma 2017: 116).

Putting forward a rather economic solution to a peacebuilding problem, the policies propose increasing oversight over mineral supply chains and bringing the mineral trade back under the control of the state. In doing so, these policies seem to assign a central role to the Congolese state as the key problem solver. This study’s findings however, such as those regarding the state’s seemingly beneficial treatment of some large-scale mineral buying houses over small-scale mineral buyers (Chapter 5) and the state’s limited territorial reach (Chapters 6 and 7), demonstrate that such an approach to the Congolese state might be overly positive.

Finally, the analysis of the main policy documents revealed that the reforms are rather uniform in identifying armed groups as the main contributor to the conflict. Concerning who is affected by the problem of conflict minerals, the policies are more ambiguous, mentioning both the suffering of the Congolese population and the unintended complicity in human rights violations of downstream producers and consumers of electronic products.

2. How has conflict-mineral policy evolved during the course of its implementation?

The ambiguity in how policy documents identify the affected party highlights an important incoherence in the policies’ objectives. Conflict-mineral policies hinge on seemingly corresponding objectives that vary between conflict-free sourcing and ending human suffering. In reality, these objectives may not, in fact, align. Put even more strongly, although conflict-mineral policy development emerged from the shared intention to promote peace and end human suffering in Congolese mining areas, reform practice seems to have evolved more towards conflict-free sourcing over time (Chapter 4).

Second, Chapter 5, studying the spatial differentiation in policy implementation across Congo’s provinces, demonstrated how, ironically, the geographical focus for policy implementation seems to have shifted over time away from the mining areas facing militarisation and towards the Congolese provinces least affected by conflict, such as Maniema and Katanga. Whereas conflict-ridden North and South Kivu together managed to include only a handful of mine sites in the International Tin Research Institute Tin Supply Chain Initiative (iTSCi) traceability scheme during the first three years of policy implementation (2011–2014), Katanga covered all of its mine sites in only 12 months’ time (in 2011) (Chapter 5).

3. Through which processes (including which objects, arenas and actors) has conflict-mineral policy become negotiated into Katanga’s existing socioeconomic and natural resource governance realities?

This dissertation discusses three different negotiation processes around which the negotiation of conflict-mineral policy into Congo’s governance realities has taken place: 1) the

geographic focus of policy implementation (Chapter 5); 2) the re-definition of and access to the mineral supply chain (Chapter 6); and 3) the attribution of local governance tasks (Chapter 7).

As highlighted above, although they were intended to break the link between the mineral trade and conflict, conflict-mineral interventions have mostly been implemented in the least conflict-affected provinces—Katanga and Maniema. This geographical focus is the combined result of 1) the active and timely engagement of international large-scale mineral traders, and 2) close collaboration between these traders, Congolese state mining authorities and the tin industry-led traceability scheme (iTSCi). Through the smart financing of traceability schemes, a shared conflict-free Katanga discourse and a discriminatory tax system for mineral buyers from neighbouring provinces, these three stakeholder groups managed to safeguard their mutual interest, namely the continuation of the 3T mineral trade in Katanga (Chapter 5). The introduction of conflict-mineral initiatives thus redirected the Katangese mineral supply chain away from the Kivu provinces and put Katanga on the map as a major 3T mineral exporter.

Second, the requirements for due diligence and the need to trace minerals back to their origin have also concentrated the 3T mineral trade in the hands of a few large-scale international buying houses, whereas trade before 2009 was dominated by a multitude of smaller-scale Congolese traders. Through a process called territorialisation (cf. Peluso and Lund, 2011; Vandergeest and Peluso, 1995), Bukama's mining areas and actors were mapped, registered and classified. These mapping and classification practices might seem a neutral and necessary process following inherently from the demand to increase oversight over the mineral supply chains. However, the effects of these practices go beyond reordering; they have altered access to and control over Bukama's mineral trade. Although the introduction of conflict-mineral initiatives might not have intended to concentrate 3T trading patterns in the hands of a few, the re-ordering of the mineral supply chain has certainly changed mineral trading patterns in favour of large-scale, international and easily identifiable buying houses, to the detriment of Bukama's small-scale Congolese *negociants'* ability to benefit from the mineral production and trade (Chapter 6).

Finally, national and international requirements for companies sourcing from the DRC necessitated the detailed administration of mineral trade transactions and extended the local state apparatus around mine sites by 500% from 2006 to 2014. Additionally, private mineral buyers came to settle closer to the mine sites, intending to increase oversight over their supply chains. These two developments have impacted the allocation of governance tasks away from the central Congolese state and towards both local state services and private actors in Bukama.

With the Congolese central state being unable or unwilling to financially support this extended state apparatus or to pay for social-economic development projects, private actors such as the mineral buyer MMR have taken up the task of paying for the state's functioning by making 'salary' payments and providing transport to state agents and by financing social development projects for Bukama's mining communities (Chapter 7). At the same time, the local mining service, SAESSCAM, has taken on governance tasks such as the organisation of access to 3T deposits and trade in the absence of clear regulatory frameworks for access provision.

4. *What do these negotiations and their outcomes tell us about the interests and repertoires of the actors involved?*

The central Congolese state seems to have benefitted the most from the increased oversight over the 3T mineral trade. Traceability initiatives such as the iTSCi scheme have significantly enhanced the central state's capacity to levy taxes on artisanal minerals, most of which previously left the country without being registered or taxed (Spittaels, 2010: 16). The interest of the Congolese state in international due diligence initiatives is clear from its presence at international due diligence conferences and the adoption of international certification and due diligence standards into Congolese law in 2012.

However, this study found that the interest of the central state in these initiatives at the *international* level is not mirrored by its facilitation of *local* natural resource governance. The central state does not financially support the proper functioning of its local state apparatus. It does not pay salaries to any of the 18 Mining Division agents in Bukama, although it receives an estimated 93% of Bukama's local tax revenues (Chapter 7). Additionally, the central state does not provide a clear regulatory framework regarding access to artisanal and small-scale mining (ASM) areas. It seems unwilling to create sufficient artisanal mining zones for legal ASM exploitation, and its non-transparent lease contracts and arrangements seem to stand in the way of the development of such a regulatory framework. Leaving local state services to resolve access disputes and private actors to finance the local state apparatus, the central state seems to have managed to ensure revenue collection with very limited investments in local state functioning.

Local state services in Bukama, faced with an unclear regulatory framework for governing access in ASM areas, have taken on tasks beyond their legal mandate. Balancing the interests of local actors, these state services have resolved access disputes through local arrangements. However, the extended local state apparatus in Bukama also led to the emergence of detrimental processes, including increased tax pressure and harassment, in ASM communities. The fact that local state agents' salaries were not paid by the central state resulted in local state officials interpreting tax regulations loosely, illegally expropriating from well-producing mine pits, engaging in extortion at unofficial roadblocks, and participating in the mineral trade and mine pit ownership (Chapter 7).

For the private sector sourcing from the Bukama region, it has been of the utmost importance to ensure the continuation of mineral production and to demonstrate the origin of their 3T minerals. To do these things, MMR and other *comptoirs* have moved their offices closer to the mine sites and altered their purchasing strategies (only buying from clearly identifiable cooperatives after 2012) to increase oversight over their mineral supply chains (Chapter 6).

To ensure that the basic conditions for MMR to exercise due diligence are met and that the state could carry out its traceability and certification functions, MMR has taken on significant governance responsibilities. It invested USD one to two million to set up the iTSCi traceability system in Katanga (Chapter 5), carried out social-economic development projects for Bukama's ASM communities, and provided financial and logistical support to enable the functioning of Bukama's local state mining services (Chapter 7). Smartly playing into the new national and international requirements, and collaborating with iTSCi and

Katanga's mining authorities, the Indian large-scale mineral buyer MMR has managed to position itself as the largest mineral purchaser by far in Katanga (Chapter 5).

Bukama's ASM communities seem to have been affected the most negatively by the introduction of new due diligence standards and traceability regulations. The re-ordering of supply chains changed trading patterns and allowed new situations of economic exclusion to emerge. As a result, small-scale *negociants* and miners' communities saw their access to the internationally accepted mineral trade diminish and their negotiation positions weaken (Chapters 5 and 6).

The reciprocal relationship between the mining communities and customary leaders was altered significantly by the settlement of new private mineral buyers and the extension of the local state apparatus in the territory. The extended number of underpaid state agents looking for opportunities to make ends meet also harmed the position of artisanal mining communities in Bukama because of significantly increased tax pressure and additional *tracasseries*.²¹³ Disillusioned by these changes and their worsened position, Bukama's population organised an uprising in 2014, demanding that private *comptoirs* let the communities share in the mineral trade profit through the organisation of socioeconomic development projects (Chapter 7).

5. *How is Katanga's natural resource governance order affected by the implementation of the policy initiatives?*

a. *What **regulatory arrangements and (re-)attributions of state authority** have emerged as a result of conflict-mineral policy implementation?*

Katanga's natural resource governance order is defined as *a specific, but never definitely formed, configuration of governance actors' relations and interdependencies that, through a set of regulatory arrangements, normative beliefs and attributed authorities, organises to manage public resources*. This dissertation concludes that, although the conflict-mineral reforms have brought about clearly organised trading chains and consequently more oversight, the reforms have rendered local governance orders more complex and obscure.

The role of local state services has significantly increased with the introduction of conflict-mineral requirements, demanding these local actors to administrate all mineral trade transactions at every level of the mineral supply chain. However, the study also concludes that these local state services are not sufficiently facilitated by the central state in terms of providing the financial support or clear legal frameworks (concerning the organisation of access) necessary to perform their day-to-day governance tasks.

Faced simultaneously with increased tensions and new conflicts as a result of the introduction of conflict-mineral policy, local state mining services have come to function rather autonomously from the central state in addressing disputes, in what Moore (1978) refers to as *semi-autonomous social fields*, leading to a reconfiguration of Bukama's governance order. In these semi-autonomous pockets of local governance, local services such

²¹³ A generic term used by the Congolese to describe civil servants' ways of complicating citizens' lives and work, including harassment, mismanagement, extortion, illegal taxation and other unjust actions

as the *Service d'Assistance et d'Encadrement de Small-Scale and Artisanal Mining* (SAESSCAM) have taken up governance responsibilities outside of their official mandates, negotiating and enforcing local arrangements to resolve local access disputes, for example, with relative freedom but not complete autonomy from the influence of the larger overarching central state. These local arrangements proved to be viable solutions to local problems, and the fact that they were largely accepted by clashing local parties legitimised and consolidated the local state's authority in their newly obtained and exercised roles (Lund and Boone, 2013; Sikor and Lund, 2009) (Chapter 6). This expansion of SAESSCAM's authority regarding access added an additional layer to access provision, increasing existing tensions between central (Mining Registry) and local (SAESSCAM) governance.

Additionally, the lack of central registration and public disclosure of local arrangements conceals the reality of who benefits in which mining areas. The temporary and fluid character of these arrangements and their lack of legal basis cause them to fail to provide tenure security and risk easily giving rise to new disputes, rendering the organisation of access to the mineral trade in Bukama highly volatile and subject to local power struggles (Chapter 6).

The introduction of conflict-mineral initiatives in Bukama has thus led to a plurification and complexification of regulatory frameworks at the local level, as the extended local state apparatus consolidated its authority in new governance domains and allowed for the emergence of locally accepted but nationally non-recognised access arrangements.

*b. How has the implementation of conflict-mineral policy affected the **power positions, relationships and interdependencies of state governance actors?***

The position of the central state seems to have improved significantly because of the introduction of conflict-mineral requirements. Increased oversight over mineral trading transactions through the iTSCi traceability initiative and the presence of a larger local state apparatus have considerably facilitated the central state's capacity to levy taxes on the mineral trade while making limited investments. Over 90% of Bukama's local tax revenues are transferred to the central state level, although local state services claim to receive no financial or logistical support from Kinshasa. Additionally, the introduction of iTSCi in Bukama and the related extension of SAESSCAM and the Mining Division have allowed for the central state to depend on these local state services to govern day-to-day issues rather independently.

These due diligence initiatives have also made the large-scale mineral buyers more easily identifiable, allowing the Congolese central state to outsource local governance tasks to them as well (Chapter 7). Although these newly emerging interdependencies between the state and private actors might initially seem to be fully in line with the conflict-mineral policy goal of using public-private collaboration to curb the trade of conflict minerals, this public-private collaboration seems to work out differently than anticipated. First, it has resulted in network-like structures economically benefitting large-scale private actors, facilitating MMR, for example, to position itself as Katanga's largest 3T mineral purchaser, monopolising

Katanga's 3T mineral market in only one to two years' time (Chapter 5). Second, this interdependency has allowed national state authorities in Kinshasa to further loosen their responsibilities vis-à-vis their local offices and ASM communities, passing these responsibilities over to private *comptoirs* (Chapter 7).

This 'discharging' (Hibou, 2004) of central governance tasks to the private sector has made both Bukama's local state and ASM communities dependent on private mineral buyers as public service providers and financial facilitators of local governance. This interference of private actors in local governance has resulted in the facilitation and consolidation of the extortive behaviour of the local state and its related injustices, and it has normalised the central state's limited engagement in local natural resource governance. Finally, this study concludes that this privatised governance has hampered the establishment of a legitimate state–society relationship through encouraging a further shift of expectations and sense of accountability away from the state and towards the private sector among Bukama's mining communities (Chapter 7).

This is not, however, to say that these public–private and private–community relations and interdependencies, or the semi-autonomous functioning of local state services, are purely the result of conflict-mineral interventions. The introduction of conflict-mineral policy in itself has not had a large influence on the *nature* of these private–public and private–community relations. This study acknowledges that local predatory governance practices and corporate paternalism are characteristics and consequences of decades of malfunctioning state institutions (Dibwe dia Mwembu, 2001; Hönke, 2012; Rubbers, 2013; Schatzberg, 1988). These governance dynamics existed long before the implementation of these policy interventions and are strongly embedded in Katanga's mining history. However, these relations and interdependencies seem to have surfaced as a result of conflict-mineral reforms, and, rather than escape those deep-rooted dynamics, both the private sector and the ensemble of conflict-mineral interventions have extended and deepened them (Chapter 7).

Finally, it is argued that these forms of private governance or 'governance by discharge' should not be interpreted as a predetermined, demarcated plan orchestrated by either the private sector or the central state (Hibou, 1999: 11). Rather, this situation arose out of the necessity to solve the mismatch between new requirements for formalised trade and limited local state capacity to implement these requirements.

8.3 Reflections on theoretical debates

This section discusses the implications of this study's findings for theoretical debates on policy analysis and governance in situations of limited statehood.

8.3.1 Policy

The policy processes resulting from the introduction of conflict-mineral policy in the DRC analysed throughout this dissertation (i.e. the exceptionally rapid implementation in Katanga, the territorialisation process and re-definition of access arrangements, and the public–private 'cooperation' in dealing with local governance responsibilities) all indicate the usefulness of paying attention to the 'social life' of policy. These research findings highlight that policy

outcomes are not always intended and that the social life of policy might influence local dynamics far beyond the policy's thematic and geographic areas of focus.

First and foremost, this analysis of conflict-mineral policy processes confirms Long's (2001) argument that policy outcomes are determined mostly by the interactions among Congolese actors, rather than by the policy design itself. This study also goes one step further, concluding that the implementation of conflict-mineral policy in itself forms an arena in which different actors renegotiate their interests and mutual relations, allowing for a redefinition of Bukama's natural resource governance order. Additionally, this study adds to the academic debates on policy, emphasising the need for policy analysis to go beyond evaluation and simple impact studies. Despite decades of academic debates arguing for more interpretive and empirically embedded policy analysis, the linear-instrumentalist interpretation of policy, focusing on pre-determined indicators of success, still seems to be persistent in contemporary conflict-policy analysis (e.g. Organisation for Economic Co-operation and Development, the International Tin Research Institute and the United States Government Accountability Office).

Drawing upon these academic debates on policy analysis, the present study highlights the need for more longitudinal and extensive analyses of policy impact, pointing out subtler, less readily measurable and indirect consequences of conflict-mineral interventions on natural resource governance. It is important to reiterate this need for a more comprehensive interpretive policy analysis, as the attention currently directed towards effectiveness in terms of demilitarisation or the number of mining areas covered by iTSCi risks satisfying policy makers prematurely and hastily moving towards a new policy domain.

Finally, this work demonstrates the importance of taking the problem representation in these policies as a starting point of analysis (Bacchi, 2009). Differing from the more positivist understanding of public policy, this dissertation has approached the 'problem' of conflict minerals as a part of the policy process, concluding that the objective(s) embedded in conflict-mineral policy interventions should not be taken at face value.

It is argued that the ambiguous results of conflict-mineral policy implementation thus far cannot be explained only in terms of unintended effects and misdirected programming, as some critics seem to imply. To a certain extent, these unintended results can also be attributed to the *nature* of the reform policies, or how conflict-mineral interventions frame the *problématique* of 'conflict minerals', the solutions policy makers propose, and the type of actors they identify as contributors to the problem, affected groups or problem solvers (Chapter 4). To discuss the alleged unintended consequences of any policy, it is thus important to understand its 'intentions', as well as the design of the policy in more general terms.

8.3.2 Governance

This dissertation adds to the literature on governance in situations lacking strong overarching state frameworks, providing insight into Congolese natural resource governance dynamics through extensive empirical findings outlining the specific governance negotiation processes. The analytical framework of Hagmann and Péclard (2010), as well as the definitions of

governance provided by Raeymaekers (2007), Kassimir (2001) and Colebatch (2009a), have supported the structuring of the understanding of governance in this dissertation.

This research primarily adds to the debate on how to perceive these newly emerging governance orders—the plurification of regulatory authority, as Meagher (2012) calls it. Are they positive, transformative processes (Boege et al., 2009; Menkhaus, 2006; Raeymaekers, 2007), or should they be perceived as degenerative processes indicating a decline of the state (Klute and von Trotha, 2004; Lund, 2006a b; Roitman, 2005)?

From the transformative perspective, one could argue that Bukama's emerging governance dynamics provide viable local solutions for local ASM actors and point out successful public–private collaboration. Those governance dynamics—detached from the central state—fill institutional voids and might have the ability to influence politics at regional and central levels (Raeymaekers, 2007). From the degenerative perspective, in contrast, one could argue that these developments indicate an unravelling of the state (Lund, 2006a b) an expropriation of state authority by non-state actors (Klute and Trotha, 2004), and the rise of a substitutive and competing form of governance (Menkhaus, 2006). This plurification of regulatory authority in Bukama should thus not be seen as the absence of the central state or a new form of governance (cf. Hibou, 1999, 2004), but instead as a continuation of central state governance in a different fashion.

In line with Hibou (2004) and Vlassenroot and Raeymaekers (2008), it was found that the provision of governance tasks by the private sector in Bukama is an integral part of the central state's strategy and logics. By forcefully 'discharging' governance functions to private actors, state intervention extends beyond state institutions (Diouf, 1999; Hibou, 1999, 2004; Hönke, 2012), and the central state continues to mediate its power through both local institutions and private actors in Bukama. While contributing minimal investment and effort to the local state's functioning, causing *comptoirs* to take on significant costs for the continued functioning of Bukama's administrative apparatus, the central state maintained its power and ensured revenue collection despite the state's limited regulatory authority in the territory.

Approaching Bukama's governance dynamics in such a way, it is not possible to label the DRC as a 'weak state' (Rotberg, 2002; Zartman, 1995) or to refer to it as 'dying, but not yet dead' (Trefon, 2004). Rather, it would make more sense to conclude that the Congolese state is preponderant—or, to contradict Trefon directly, *very much alive*—and that it continues to play an important role in steering socioeconomic life (Raeymaekers et al., 2008: 10) and its artisanal mining sector.

The Congolese central state in Bukama is certainly not the best example of an ideal-typical Weberian state, as it tolerates an extortive local administration and fails to provide clear regulatory frameworks²¹⁴ and financial support to local state agents, as well as basic public goods. However, the creation of these uncertain, messy and unstable dynamics should not be understood as indicators of a 'weak state', but rather as a central state strategy that lies 'at the heart of politics, creating and maintaining conditions for the exercise of power' (Hibou, 2004: 16).

²¹⁴ Regarding access provision to the 3T mineral trade

In this way, this dissertation's argument is also in line with scholars such as Chabal and Daloz (1999) and Lund (2006b), who describe such strategies as the 'instrumentalization of disorder' or 'processes of situation adjustment' through which the Congolese state seems to reinterpret rules and allow ambiguities in regulation to emerge and continue to exist in order to foster unpredictability and institutional congruence (Lund, 2006b) to its own extractive advantage. Such a governance 'by discharge' approach not only blurs the boundaries between public and private domains; it also erodes transparency, allows for the evasion of public accountability and makes questions of legitimacy ultimately complex (Meagher, 2012: 1080–1081), as the case study of natural resource governance in Bukama clearly demonstrates.

Finally, the conflict-mineral reforms have allowed for the extension of such practices, providing opportunities for the central state to further transfer responsibilities onto private actors, while increasing its extractive capacity through the extension of the local state apparatus and oversight over mineral trading transactions.

8.4 Recommendations

This section discusses the implications of this dissertation's findings for conflict-mineral policy. In line with Salter and Mthembu-Salter's (2016: 2) request to not simply criticise the reforms but to formulate answers to the pressing questions of 'How should we move forward from here?' and 'How can we do good, without doing too much bad in the same instance?', this section addresses international policy makers as well as designers of certification and traceability schemes, making recommendations for the improvement of conflict-mineral policy and for possible avenues of further research.

8.4.1 Implications for conflict-mineral policy

1. Form a realistic perspective on the role of the Congolese central state

Aiming to put a stop to the militarisation of 3T mine sites and of the mineral trade in the DRC, conflict-mineral policy has assigned a large role to the Congolese state in the resolution of the problem. More specifically, it has put the need to bring Congo's mineral supply chain back under state control and oversight at the centre of conflict-mineral policy design.

The present research, however, has demonstrated that the Congolese state has played a somewhat ambiguous role. The state's increased involvement has resulted in improvements in the mineral flow administration and thus been beneficial for the implementation of conflict-mineral policy. Nonetheless, the conflict-mineral reforms have also allowed the extension of a 'corrosive' form of governance (Meagher, 2012). The central state seems to passively further a predatory local state apparatus in 3T mining areas by not providing local-level officials with the necessary financial and logistical support, and it uses the blurred boundaries between public and private as a justification for evading governance accountability. More elaborate baseline studies on institutional framework characteristics for Congolese natural resource governance could provide a more realistic view of the multi-layered institutions that ordered artisanal mining and trade before the conflict-mineral reforms.

To avoid the further extension of these detrimental governance processes, policy makers should plan realistically for the roles that Congolese state authorities will play within these reforms.

2. Extend policy evaluation beyond militarisation in conflict-affected provinces

Much conflict-mineral policy evaluation in the DRC to date has been focused on the impacts in the eastern provinces. Where previous evaluation has touched upon the former Katanga province, only impacts in the most northern province of Tanganika are discussed, excluding more central and southern Katangese mining areas (such as Bukama). Additionally, conflict-mineral policy evaluation does not seem to have gone much beyond assessing its effect on conflict and the militarisation of ASM mine sites, with the exception of the attention paid to the negative livelihoods effects for ASM communities as result of the 2010–2011 mining ban in the Kivus and Maniema.

This approach to conflict-mineral evaluation risks policy makers becoming satisfied with accomplishments regarding the organisation of supply chains, overlooking other, more indirect, negative effects. Such evaluation studies therefore must acknowledge that, although conflict-mineral policy aims for the demilitarisation of mine sites in eastern Congo, the initiatives have left a far larger footprint in the less conflict-ridden province of Katanga and that, if the reforms are to contribute to sustainable development in the DRC, policy makers must go beyond the evaluation of pre-determined success indicators to also analyse the more longitudinal, indirect effects on socioeconomic patterns and governance dynamics.

3. Persist with the initial policy objective of reducing human suffering

Related to the above point, it is important to note that policy effects deemed positive from a due diligence perspective do not necessarily imply positive developments for socioeconomic or governance dynamics. As the present study's findings demonstrate, it sometimes seems difficult for the objectives of due diligence and improved governance dynamics to be combined. One example is found in how extended local state services have resulted in better mineral trade administration while simultaneously causing increased tax pressure and additional forms of predatory state intervention in ASM communities. Another example is how the international demand for a redefinition of 3T mineral supply chains has improved supply chain transparency, while also leading to the economic exclusion of small-scale and less easily identifiable ASM operators and mineral buyers.

To avoid giving the development of a traceable conflict-free product priority over improving the situation of much of the Congolese population, it is important to be critical in the assessment of conflict-mineral policy outcomes. As Hilson et al. (2018) have outlined, despite the fact that traceability and mineral certification schemes are often portrayed as 'pro-poor', they do not necessarily contribute to the common good or benefit mining communities. Evaluations of conflict-mineral policy should therefore carefully distinguish between the various actors affected and indicate whether outcomes are beneficial, for example, for industry actors and consumers or for Congolese ASM communities. Failing to make this distinction risks the non-contribution to conflict and the creation of traceable commodities becoming an *ends* in themselves, instead of *means* to reach a higher objective.

4. Move reform beyond a narrow focus on supply chains, aiming for wider sector reform

Conflict-mineral reforms take a rather narrow approach, singling out only one specific aspect of the artisanal mining sector, namely commercial transactions within the mineral supply chain. The findings of this research demonstrate the need for a comprehensive reform agenda addressing the poor governance of the Congolese ASM sector as a whole to bring about sustainable change. A wider reform approach of this type, focusing more directly on the direct improvement of ASM communities' positions, should include the following:

- The design of transparent tax regulations for artisanal mineral trade and extraction;
- The inclusion of such an ASM taxation system in the Extractive Industries Transparency Initiative (EITI) to oversee correct ASM tax payment and revenue distribution, allowing for the payment of the local state apparatus;
- The promotion of genuine representation of artisanal miners' interests through democratically run associations of mine workers;
- The development of clear legal frameworks for access to the extraction and trade of 3T minerals; and
- Pressure for the strengthening of ASM tenure rights in Congolese legislation (e.g. through the creation of zones where ASM operators can legally extract minerals).

Policy should address these specific issues before turning attention to new policy fields, such as the prevention of child labour in the cobalt sector, which is at the centre of new international policy developed since the beginning of 2016.

8.4.2 Avenues for further research

Some of the main findings and conclusions of the present research raise pertinent questions on the way forward for mining sector reform and demonstrate the need for additional research. One of these questions concerns the positive involvement of the private sector in mining sector reform and the implementation of due diligence initiatives. Questions that may be central in future research on state–society relations in the Congolese mining sector reform include the following: What is the private sector's responsibility and accountability regarding social-economic development of mining communities? To what extent should the private sector respond to demands from the Congolese state to facilitate its functioning? And, most importantly, could the private sector play a different role to help re-establish a legitimate moral economy between local state services and the mining communities?

Another sub-domain touched upon within this research that would benefit from further academic research concerns the role of cooperatives. In policy makers' circles, it seems to be the assumption that the cooperatives, which mostly emerged as a result of conflict-mineral policy implementation, have an important positive effect on artisanal mining sector reform. However, this dissertation and other research (De Haan and Geenen, 2016; Wakenge Iguma and Hilhorst, 2017) point in another direction. Future mining sector reform could benefit from additional research on the role of cooperatives in the representation of the artisanal mining population, the rapid development of these cooperatives as a result of conflict-mineral reforms, other historical forms of mining community representation

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throughout Katanga, and ways for reform initiatives to avoid elite capture of such structures and other potential forms of representation.

Photo: Jose, A. Diemel, a team of artisanal coltan miners in Bulumbo mine,
Bukama district, Haut-Lomami, DRC



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Photo: Jose, A. Diemel, September 2014, an Congolese state office
in Bukama, Bukama district, Haut-Lomami, DRC



English Summary

This dissertation deals with the effects of conflict-mineral reform interventions implemented throughout Congo's tin, tantalum and tungsten (3T) mineral areas over the last eight years. The phrase 'conflict minerals'²¹⁵ refers to coltan, cassiterite and wolframite originating from mining areas in the DRC,²¹⁶ whose extraction, trade or transport is said to benefit armed groups to finance their operations in the ongoing conflict in the region.

These reforms, which aim to create more oversight over the Congolese mineral trade in order to prevent its revenues from financing Congo's conflict, have been both applauded and criticised over the years. Some policy evaluations have praised the demilitarisation of Congolese 3T mines as a result of the reforms, whereas others have highlighted the detrimental effects of the reforms on livelihoods in artisanal and small-scale mining communities.

In contrast to these policy evaluation studies, the present study aims to go beyond measuring effectiveness and mapping unintended consequences. Ultimately, it is not only important to know *whether* conflict-mineral policy has achieved its objectives, but also to understand *why* it has or has not. Therefore, this dissertation aims to study *how* and through *which processes* conflict-mineral policy outcomes have come about, and what traces it has left behind.

Acknowledging the DRC's complex governance context, where law and order are fluid concepts and the central state has a limited territorial reach, this study puts natural resource governance at the centre of its analysis. It raises questions about how the Congolese state and other governance actors have responded to the request for mining sector reform, how the reform has affected them, how Congolese state institutions and their agents have picked up the extensive conflict-mineral certification and traceability tasks, and what traces the reforms have left behind on Congo's natural resource governance.

To achieve these research objectives, this study combines insight from the bodies of literature on policy and on governance. Building on a combination of interpretive policy analysis, development sociology and policy anthropology, this research approaches policy as a fluid process with a social life of its own (Colebatch, 1998; Mosse, 2004). It acknowledges the agency of both policy implementers and its recipients to influence the outcome of policy (Hilhorst, 2003; Long, 2001), as well as its multiple and sometimes contrasting meanings (Yanow, 2012). Once such a policy intervention enters into a certain governance order, with its pre-existing logics of action and historically grown power relations (Rubbers, 2013: 9), it provokes a process through which the policy becomes negotiated (Hilhorst, 2003; Long, 2001; Mosse, 2004).

²¹⁵ Conflict minerals are often referred to as 3T minerals, indicating the metals tin, tantalum and tungsten, processed from cassiterite, coltan and wolframite ores, as well as gold, originating from mining areas in the Great Lakes Region.

²¹⁶ Also from the African Great Lakes Region in broader terms

To analyse governance, this research takes inspiration from the work of Lund (2006a), Raeymaekers (2007) and Colebatch (2009a), defining governance as a spontaneous and continuous negotiation process through which state and non-state actors organise to manage public resources and accomplish a certain governance order. This process is perceived as an ‘open moment’ (Lund, 1998: 2) during which the fragile equilibrium of a governance order becomes renegotiated, including a reshuffling of relations and interdependencies, the emergence of regulatory arrangements and the re-attribution of authority.

Using extensive longitudinal data on policy implementation collected in the territory of Bukama from March 2014 to May 2016, this research explores the effects of conflict-mineral reform policies on local governance orders in the DRC. Methodologically, this study is grounded in the ethnographic tradition, taking a multi-sited political ethnographic approach (Schatz, 2009a; Stepputat and Larsen, 2015). It follows policy as the theme connecting various research sites along the 3T mineral supply chains in Katanga, stretching from the coltan and cassiterite mines of Bukama territory, to the mineral trading hub of Luena, to the mineral export depots and administrative offices of Lubumbashi and Kalemie. By taking this approach, the research puts the everyday (Kerkvliet, 2009) governance practices, perceptions and strategies of state officials, mining communities and mineral buyers vis-à-vis these policy interventions at the centre of its analysis.

Chapters 1 through 3 form the introductory section of this dissertation, outlining the research objective and justification, providing an analytical framework on public policy and governance, and discussing the methodological decisions and ethical considerations underlying this research.

Chapter 4 introduces the domain of conflict-mineral policy. It provides an overview of the most relevant national and international interventions and, by means of a discourse analysis of the reform policies, it aims to understand how these policy interventions represent the problem of conflict minerals, the solutions they envision and their proposed plans.

Chapters 5 to 7 study the effects of conflict-mineral policy on Katanga’s local governance orders, and especially the position of local state institutions therein. Chapter 5 addresses a strikingly paradoxical feature of the reforms, namely that the interventions meant to address conflict in mining areas are, ironically, mostly implemented in Katanga province, which is the least affected by conflict. Studying a group of highly influential public and private actors in the province, the chapter outlines how their collaboration developed in a different direction from what was anticipated by the policy interventions.

Chapter 6 studies the redefinition of access to the mineral trade in Bukama resulting from the implementation of conflict-mineral reforms and highlights how the central state’s limited territorial reach and the absence of clear legal frameworks have resulted in the emergence of locally negotiated access arrangements and a redirection of access-granting authority towards local state institutions.

Chapter 7 addresses the position of local state institutions vis-à-vis both citizens and the private sector. This chapter outlines how new conflict-mineral regulations have resulted in an extension of the local state apparatus, as well as large-scale mineral buyers settling in Bukama’s mining areas. It examines how these changes have altered governance dynamics, including the private sector’s engagement in natural resource governance and how this has affected the relationship between local state institutions and the mining population.

In studying the effects of conflict-mineral policy interventions on Congo's natural resource dynamics, this dissertation aims to make a contribution to the academic debates

- on policy analysis;
- on governance in conflict-affected settings characterised by limited statehood; and
- on conflict-mineral policy debate in more general terms.

Finally, this research identified an ambiguity in the objectives of the reforms. Although conflict-mineral policy development emerged from the shared intention to promote peace and end human suffering in Congolese mining areas, the findings demonstrate that the objectives of due diligence and improved conditions for artisanal and small-scale mining communities are not always easy to combine. Over time, reform practice seems to have evolved more towards conflict-free sourcing, raising the question of whether developing a traceable and conflict-free product has gained prominence over contributing to improving the situation of the Congolese population.

It was found that, although the conflict-mineral reforms have brought about clearly organised trading chains and consequently more oversight, the reforms have also rendered local governance orders more obscure and complex. The introduction of conflict-mineral requirements have significantly increased the role of local state services, demanding these local actors to administrate all mineral trade transactions at every level of the mineral supply chain. As a result, this local state apparatus has extended its authority and new locally accepted but nationally non-recognised arrangements, leading to a plurification of regulatory frameworks at the local level.

By not providing this extended local state apparatus with the necessary financial and logistical support, the central state has passively furthered a predatory local state in 3T mining areas, which has weighed heavily on local artisanal and small-scale mining communities in terms of increased tax pressure and harassment by local civil servants. Simultaneously, the reforms deteriorated the position of these communities significantly, as the reforms redefined trading patterns to benefit large-scale international mineral buyers over miners' communities, who saw their access to the mineral trade diminish and their negotiation positions weaken.

The central Congolese state seems to have benefitted the most from the conflict-mineral reforms, as increased oversight over the 3T mineral trade enhanced the state's capacity to levy taxes on the artisanal mineral trade. The central state's interest in these initiatives has not been mirrored by its facilitation of *local* natural resource governance. This research found that, while contributing minimal investment and effort to the local state's functioning and leaving private actors in Bukama to finance the local state apparatus and provide public services to artisanal and small-scale mining communities, the central state managed to maintain its power and ensured revenue collection in the territory. This study concludes that this 'governance by discharge' has not only hampered the establishment of a legitimate state-society relationship; it has also blurred the boundaries between public and

private domains and eroded transparency, allowing for the evasion of public accountability and making questions of legitimacy ultimately complex.

The dissertation concludes with recommendations for the improvement of conflict-mineral policy, in order to do good without doing too much bad in the same instance. To avoid the deepening of detrimental governance practices, it recommends that policy makers plan more realistically for the roles that Congolese state authorities should play within these reforms. It also recommends that policy evaluation go beyond the effects on militarisation in conflict-affected provinces to acknowledge that the initiatives have left a possibly larger footprint on governance and mining communities' livelihoods in the less conflict-ridden province of Katanga. Finally, it recommends that the reforms extend their narrow focus beyond supply chains to aim for wider artisanal mining sector reform if the reform initiatives intend to improve the position of artisanal mining communities. This kind of broader approach would include the design of transparent tax regulations for artisanal and small-scale mining, the promotion of genuine representation of artisanal miners' interests, the development of clear legal frameworks for access to artisanal mineral extraction and trade, and a strengthening of artisanal and small-scale mining tenure rights in Congolese legislation.

Nederlandse Samenvatting

Dit proefschrift behandelt de effecten van ‘conflictmineralen’ hervormingen, die de afgelopen acht jaar zijn geïmplementeerd in Congolese gebieden waar tin, tantaal en wolfram (afgekort als 3T) worden gewonnen. De term ‘conflictmineralen’²¹⁷ verwijst naar coltan, cassiteriet en wolframiet afkomstig uit Congolese mijnbouwgebieden²¹⁸, waarvan wordt gezegd dat de winning, handel en transport gewapende groeperingen helpt hun voortdurende strijd in de regio te financieren.

Deze hervormingen, die tot doel hebben het toezicht over de Congolese minerale handel te vergroten, zijn in de loop der jaren zowel toegejuicht als bekritiseerd. Sommige beleidsevaluaties prijzen de hervormingen voor het realiseren van een demilitariseringstrend in Congolese 3T-mijnen, terwijl anderen wijzen op de schadelijke effecten die de hervormingen hebben op sociaaleconomische mogelijkheden voor artisanale mijnwerkers gemeenschappen.

In tegenstelling tot deze beleidsevaluaties, tracht dit onderzoek verder te gaan dan het meten van beleidseffectiviteit en het in kaart brengen van onbedoelde effecten. Het is namelijk niet alleen belangrijk om te weten *of* het beleid ten aanzien van conflictmineralen zijn doelstellingen heeft bereikt, maar ook om te begrijpen *waarom* dit al dan niet is gebeurd. Daarom heeft dit proefschrift tot doel te onderzoeken *hoe* en *via welke processen* conflictmineralen beleidsresultaten tot stand zijn gekomen, en welke sporen dit beleid heeft nagelaten.

Rekening houdend met de complexe Congolese bestuurlijke context, waar rechtsorde een fluïde concept lijkt te zijn en waar het territoriale bereik van de centrale staat beperkt is, stelt dit onderzoek het bestuur van natuurlijk grondstoffen centraal. Het stelt vragen over de wijze waarop de Congolese overheid en andere bestuurlijke actoren hebben gereageerd op de mijnbouwsector hervormingen; over hoe de hervormingen hen hebben beïnvloed; hoe Congolese staatsinstellingen en hun functionarissen het certificerings- en traceer werk hebben opgepakt; en welke sporen de hervormingen hebben nagelaten op het Congolese bestuur van natuurlijk grondstoffen.

Om deze onderzoeksvragen te beantwoorden combineert dit onderzoek inzichten uit de literatuur over beleid en bestuur. Voortbouwend op een combinatie van interpretatieve beleidsanalyse, ontwikkelingssociologie en beleidsantropologie wordt beleid benaderd als een fluïde proces met een eigen sociale dimensie (Colebatch, 1998; Mosse, 2004). Daarbij onderkent dit onderzoek dat zowel de uitvoerders als de doelgroep van het beleid de uitkomst van beleid kunnen beïnvloeden (Hilhorst, 2003; Long, 2001), en dat beleid veelvoudige en soms tegenstrijdige betekenissen kan bevatten (Yanow, 2012). Wanneer een beleidsinterventie een bestuursorde binnentreedt, met de daarin reeds bestaande strategieën en historisch gegroeide machtsverhoudingen (Rubbers, 2013: 9), ontstaat er een proces waarin het beleid

²¹⁷ Conflictmineralen worden vaak aangeduid als 3T-mineralen. Dit verwijst naar de Engelse namen van de metalen tin, tantaal en wolfram (tungsten) gewonnen uit cassiteriet-, coltan- en wolframieterts, en goud afkomstig uit mijnbouwgebieden in het Grote Merengebied.

²¹⁸ Ook in algemenere zin uit het Afrikaanse Grote Merengebied

wordt onderhandeld (Hilhorst, 2003; Long, 2001; Mosse, 2004).

Voor de analyse van bestuur, laat dit onderzoek zich inspireren door het werk van onder andere Lund (2006a), Raeymaekers (2007) en Colebatch (2009a). Deze auteurs definiëren bestuur als een spontaan en continu onderhandelingsproces waarbij statelijke- en niet-statelijke actoren zich organiseren om publieke middelen te beheren en een bepaalde bestuursorde te bereiken. Dit proces wordt benaderd als een 'open moment' (Lund, 1998: 2) waarin het bestaande fragiele evenwicht van een bestuursorde opnieuw wordt onderhandeld, met inbegrip van een herschikking van relaties en onderlinge afhankelijkheden, het ontstaan van regulerende overeenkomsten en een nieuwe toewijzing van bevoegdheden.

Dit onderzoek bestudeert de gevolgen van conflict-mineralen hervormingsbeleid op lokale bestuursstructuren in de DRC. Voor dit proefschrift is van maart 2014 tot mei 2016 uitgebreid longitudinaal onderzoek gedaan naar beleidsimplementatie in het Bukama gebied. Methodologisch gezien is dit onderzoek gebaseerd op etnografische traditie, waarbij voor een politiek-etnografische benadering is gekozen op meerdere locaties (Schatz, 2009a; Stepputat en Larsen, 2015). Beleid vormt het thema dat de verschillende onderzoekslocaties langs de 3T-mineraal aanvoerketens in Katanga verbindt. Van de coltan- en cassiterietmijnen van Bukama, via het mineralenhandelscentrum van Luena, tot de exportdepots en administratiekantoren in Lubumbashi en Kalemie. Door deze benadering, stelt het onderzoek de alledaagse (Kerkvliet, 2009) bestuurspraktijken, en de percepties van overheidsfunctionarissen, mijnbouwgemeenschappen en mineraalhandelaren ten aanzien van de beleidsinterventies, centraal.

De hoofdstukken 1 tot en met 3 vormen de inleidende hoofdstukken van dit proefschrift en schetsen het onderzoeksdoel en de onderzoeksrechtvaardiging. Verder bevatten deze hoofdstukken het analytische kader voor het bestuderen van beleid en bestuur en worden in deze eerste drie hoofdstukken de methodologische keuzes en ethische overwegingen besproken die aan dit onderzoek ten grondslag liggen.

Hoofdstuk 4 introduceert het conflictmineralen beleid. Het hoofdstuk verschaft een overzicht van de meest relevante nationale en internationale interventies op het gebied van conflictmineralen. Aan de hand van een discoursanalyse wordt ingegaan op hoe deze beleidsinterventies het conflictmineralen probleem representeren en welke oplossingen en beleidsplannen er worden aangedragen.

De hoofdstukken 5 tot en met 7 gaan verder in op de effecten van conflictmineralen beleid op lokale bestuursstructuren in Katanga, en met name op de positie van lokale staatsinstellingen. Hoofdstuk 5 bespreekt een opvallend paradoxaal aspect van de hervormingen, namelijk dat de interventies die bedoeld zijn om conflict in mijngebieden tegen te gaan, ironisch genoeg meestal worden geïmplementeerd in provincies zoals Katanga die het minst door conflict getroffen zijn. Het hoofdstuk schetst hoe de samenwerking tussen een groep zeer invloedrijke publieke en private actoren in de provincie zich in een andere richting ontwikkelde dan voorzien door de beleidsinterventies.

Hoofdstuk 6 behandelt de herdefiniëring van de toegang tot de mineralenhandel in Bukama als gevolg van de uitvoering van conflictmineralen beleid. Daarbij wordt uiteengezet hoe het beperkte territoriale bereik van de centrale staat en het ontbreken van duidelijke wettelijke kaders hebben geresulteerd in het ontstaan van nieuwe lokaal onderhandelde toegangsregelingen tot mineralenhandel en een heroriëntatie van toegang verlenende

bevoegdheid in de richting van lokale staatsinstellingen in plaats van de toenmalige traditionele machtsstructuren.

Hoofdstuk 7 bestudeert de positie van de lokale staatsinstellingen ten opzichte van zowel burgers als de particuliere sector. Dit hoofdstuk schetst hoe de nieuwe conflictmineralen hervormingen geleid hebben tot een significante uitbreiding van het lokale staatsapparaat, en hoe de hervormingen grootschalige mineralen inkopers motiveerden zich dichterbij de mijnbouwactiviteiten te vestigen. Het zet uiteen hoe deze veranderingen de natuurlijke grondstoffen bestuursdynamiek in Bukama hebben beïnvloed. Hoe de particuliere sector steeds verder betrokken is geraakt bij het faciliteren van natuurlijke grondstoffen bestuur en hoe deze ontwikkelingen uiteindelijk de legitimiteitsrelatie tussen lokale staatsinstellingen en de mijnbouwbevolking hebben beïnvloed.

Door het bestuderen van de effecten van conflictmineralen beleid op lokale natuurlijke grondstoffen bestuur in de DRC, levert dit proefschrift een bijdrage aan het wetenschappelijk debat over:

- beleidsanalyse;
- bestuur in conflictsituaties die worden gekenmerkt door een beperkte soevereiniteit van de staat;
- en het beleidsdebat over conflictmineralen in meer algemene zin.

Ten eerste heeft dit onderzoek een onduidelijkheid in de conflictmineralen hervormingsdoelstellingen aan het licht gebracht. Hoewel beleidsontwikkeling op het gebied van conflictmineralen is voortgekomen uit een gezamenlijke intentie om vrede te bevorderen, laat dit onderzoek zien dat de doelstellingen van *due diligence* en verbeterde omstandigheden voor lokale gemeenschappen niet altijd gemakkelijk te verenigen zijn. De hervormingspraktijk lijkt in de loop der tijd meer te zijn geëvolueerd in de richting van conflictvrije mineralen inkoop dan in het verlichten van menselijk lijden in de Congolese mijnbouwgebieden. De vraag rijst dan ook of de ontwikkeling van een traceerbaar en conflictvrij product prioriteit heeft gekregen over de verbetering van de situatie van de Congolese bevolking.

Uit het onderzoek blijkt dat conflictmineralen hervormingen weliswaar hebben geleid tot duidelijk georganiseerde mineralen aanvoerketens en bijgevolg tot meer toezicht, maar dat de hervormingen tegelijkertijd de lokale bestuursstructuren ondoorzichtiger en complexer hebben gemaakt. Door de invoering van nieuwe conflictmineralen regelgeving is de rol van lokale staatsorganen aanzienlijk vergroot, onder meer door het administreren van alle mineralen handelstransacties op verschillende niveaus in de mineralen aanvoerketen. Als gevolg daarvan heeft dit lokale staatsapparaat zijn bevoegdheden uitgebreid en zijn er nieuwe weliswaar lokaal geaccepteerde, maar nationaal niet-erkende regelingen tot stand gekomen, die hebben geleid tot een pluralisering van de regelgevingskaders op lokaal niveau.

Doordat de centrale staat dit geëxpandeerde lokale staatsapparaat niet van de nodige financiële en logistieke ondersteuning voorzag, faciliteerde het indirect het ontstaan van een uitbuitende lokale overheid in 3T-mijnbouwgebieden. Deze geëxpandeerde lokale staat drukte vooral zwaar op de lokale mijnbouw gemeenschappen die werden geconfronteerd met verhoogde belastingdruk en afpersing door lokale functionarissen. Tegelijkertijd brachten de hervormingen een verslechterde de handelspositie van de mijnbouw gemeenschappen teweeg. De gemeenschappen zagen hun vrije toegang tot mineralen handel afnemen en hun

onderhandelingspositie verslechteren, doordat de hervormingen handelspatronen herdefinieerden ten voordele van grote internationale mineralen opkopers.

De centrale staat in Congo lijkt het meest te hebben geprofiteerd van de hervormingen. Door het toegenomen toezicht op de 3T-mineralenhandel vergrootte de staat haar capaciteit om belasting te heffen op de kleinschalige mijnbouw. Interessant genoeg, wordt het belang dat de centrale staat aan deze initiatieven lijkt te hechten echter niet weerspiegeld in haar investeringen in lokaal natuurlijke grondstoffen bestuur. Dit onderzoek toont aan dat de centrale staat met minimale investeringen en door het uitbesteden van lokaal bestuur en publieke diensten aan particuliere investeerders in Bukama, erin slaagde haar macht te behouden en haar belastinginkomsten uit mineralenhandel veilig te stellen. Het onderzoek concludeert dat deze ‘bestuurlijke uitbesteding’ niet alleen de totstandkoming van een legitieme relatie tussen staat en samenleving heeft belemmerd, maar ook de grenzen tussen de publieke en de particuliere sector heeft vervaagd en minder transparant heeft gemaakt. Hierdoor is het voor de Congolese staat makkelijker geworden zich aan haar publieke verantwoordingsplicht te onttrekken, terwijl legitimiteitsvraagstukken extra ingewikkeld lijken te zijn geworden.

Het proefschrift besluit met aanbevelingen voor de verbetering van conflictmineralen beleid, om goed te kunnen doen zonder tegelijkertijd al te veel schade aan te richten. Ten eerste adviseert het beleidsmakers de rol van Congolese staatsinstanties bij deze hervormingen realistischer in te schatten, om te voorkomen dat bestaande schadelijke bestuurspraktijken verder inslijten. Ten tweede zou beleidsevaluatie verder moeten gaan dan het bestuderen van de gevolgen voor militarisering in de door conflict getroffen provincies. Het moet erkent worden dat de conflictmineralen hervormingen mogelijk een nog grotere impact hebben gehad op het bestuur en de economische bestaansmiddelen van mijnbouwgemeenschappen in het veel minder conflictueuze Katanga. Ten slotte pleit het onderzoek ervoor dat mijnbouwervormingen in de DRC verder moeten gaan dan de huidige focus op mineralen aanvoerketens. Er zou gestreefd moeten worden naar een veel bredere hervorming van de artisanale mijnbouwsector in zijn geheel. Want alleen dat zal de positie van artisanale mijnbouwgemeenschappen kunnen helpen verbeteren. Een dergelijke bredere aanpak zou het volgende moeten omvatten: de opstelling van transparante belastingregels voor de artisanale mijnbouwsector; de bevordering van een daadwerkelijke belangenvertegenwoordiging van artisanale mijnwerkers; de ontwikkeling van duidelijke wettelijke kaders voor toegang tot de artisanale mineralen handel en winning; en een versterking van de artisanale-(pacht)rechten in Congolese wetgeving.

Résumé Français

La présente thèse étudie les effets des réformes relatives aux minerais de conflit, telles qu'elles ont été mises en œuvre au cours des huit dernières années dans les régions minières congolaises productrices d'étain, de tantale et de tungstène (les 3T: tin, tantalum & tungsten). L'expression « minerais de conflit »²¹⁹ désigne le coltan, la cassitérite et la wolframite provenant des zones minières de la RDC²²⁰. L'extraction, le commerce et le transport de ces minerais profiteraient aux groupes armés et leur permettraient de financer leur participation au conflit en cours dans la région.

Les réformes visent à mieux contrôler le commerce des minerais congolais et d'empêcher ainsi que les revenus qu'il génère servent à financer le conflit au Congo. Elles ont été à la fois applaudies et critiquées au fil des ans. Certaines évaluations ont fait l'éloge de la démilitarisation des mines 3T congolaises à la suite des réformes, alors que d'autres ont souligné les effets préjudiciables de ces mêmes réformes sur les moyens de subsistance des communautés vivant de l'exploitation minière artisanale et à petite échelle.

À la différence des travaux d'évaluation auxquels nous venons de faire référence, la présente étude ne veut pas se contenter de mesurer l'efficacité de la politique adoptée et de cartographier les conséquences non prévues. En fin de compte, il ne s'agit pas seulement de savoir *dans quelle mesure* la politique adoptée vis-à-vis des minerais de conflit a atteint ses objectifs, mais aussi de comprendre *pourquoi* elle les a atteints ou non. Nous avons par conséquent étudié *comment* et à travers *quels processus* la politique relative aux minerais de conflit a obtenu ses résultats, et quel a été son impact.

En tenant compte de la complexité administrative en RDC, où la loi et l'ordre sont des concepts fluides et où l'État central a une portée territoriale limitée, nous avons organisé notre analyse autour de la question centrale de la gestion des ressources naturelles. Notre étude se propose d'observer comment l'État congolais et les autres acteurs de la gestion ont donné suite à la demande de réformer le secteur minier, comment la réforme les a influencés, comment les institutions publiques congolaises et leurs représentants ont assumé l'ensemble des tâches de certification et de traçabilité des minerais de conflit, et quel est l'impact de ces réformes sur la gestion des ressources naturelles congolaises.

Afin de nous donner les meilleures garanties pour atteindre les objectifs proposés, nous avons consulté la littérature sur les politiques publiques d'une part, et celle portant sur la gestion d'autre part. En combinant l'analyse interprétative des politiques publiques, la sociologie du développement et l'anthropologie des politiques publiques, notre travail aborde la politique publique comme un processus fluide ayant sa propre vie sociale (Colebatch, 1998 ; Mosse, 2004). Nous tenons compte à la fois de l'action des responsables de mise en œuvre et de leurs destinataires, désireux d'influencer le résultat de la politique (Hilhorst, 2003 ; Long, 2001), et

²¹⁹ Les minerais de conflit sont souvent appelés minerais 3T, appellation qui réfère aux trois métaux – l'étain (tin), le tantale (tantalum) et le tungstène (tungsten) – extraits des minerais cassitérite, coltan et wolframite, ainsi que de l'or, provenant de zones minières situées dans la Région des Grands Lacs.

²²⁰ Et de manière plus générale aussi de la Région des Grands Lacs africains.

également des significations multiples et parfois contrastées que peut avoir cette politique (Yanow, 2012). Au moment où une telle politique d'intervention est assimilée par un certain ordre de gestion, avec ses logiques d'action préexistantes et ses relations de pouvoir historiquement développées (Rubbers, 2013: 9), elle donne lieu à un processus à travers lequel sera négociée la politique (Hilhorst, 2003 ; Long 2001 ; Mosse, 2004).

Pour l'analyse de la gestion, cette recherche se nourrit des travaux de Lund (2006a), Raeymaekers (2007) et Colebatch (2009a), qui définissent la gestion comme un processus de négociation spontané et continu à travers lequel acteurs étatiques et non étatiques s'organisent afin de gérer les ressources publiques et d'atteindre un certain ordre de gestion. Ce processus est perçu comme un « moment ouvert » (Lund, 1998: 2) au cours duquel l'équilibre fragile d'un ordre de gestion est renégocié, ce qui mène notamment à une réorganisation des relations et des interdépendances, à l'émergence de dispositions réglementaires et à la redistribution des pouvoirs.

En utilisant des données longitudinales étendues portant sur la mise en œuvre des politiques publiques – données collectées dans la région de Bukama de mars 2014 à mai 2016 –, notre recherche mesure l'impact des politiques de réforme relatives aux minerais de conflit sur les ordres de gestion locaux en RDC. Sur le plan méthodologique, notre travail s'inscrit dans la tradition ethnographique et adopte une approche « multi-site » ethnographique et politique (Schatz, 2009a ; Stepputat et Larsen, 2015). Nous abordons la politique publique comme un fil rouge reliant différents sites de recherche situés le long des chaînes d'approvisionnement en minerais 3T au Katanga : des mines de coltan et de cassitérite dans la région de Bukama au centre pour le commerce de minerais de Luena, en passant par les dépôts pour l'exportation de minerais et par les bureaux administratifs de Lubumbashi et de Kalemie. En adoptant cette approche, nous accordons dans nos analyses une place centrale aux pratiques de gestion au quotidien (Kerkvliet, 2009) ainsi qu'aux perceptions et aux stratégies adoptées vis-à-vis de ces interventions par les représentants de l'État, les communautés minières et les acheteurs de minerais.

Les chapitres 1 à 3 constituent la partie introductive de cette thèse. Nous y présentons les objectifs de notre recherche ainsi que sa justification, nous fournissons un cadre d'analyse relatif aux politiques publiques et à la gestion, et nous décrivons les décisions méthodologiques et les considérations éthiques qui sous-tendent cette recherche.

Le chapitre 4 présente le domaine de la politique publique liée aux minerais de conflit. Nous y proposons un aperçu des actions nationales et internationales les plus pertinentes. Par le biais d'une analyse du discours des politiques de réforme, nous essayons de comprendre comment ces politiques d'intervention représentent le problème des minerais de conflit, les solutions qu'elles envisagent et les plans qu'elles proposent.

Les chapitres 5 à 7 étudient les effets de la politique relative aux minerais de conflit sur les ordres de gestion locaux du Katanga. Nous nous intéressons en particulier à la position des institutions publiques locales à cet égard. Le chapitre 5 aborde un frappant paradoxe caractérisant les réformes, à savoir que les interventions destinées à résoudre les conflits dans les zones minières sont, ironiquement, principalement mises en œuvre dans la province du Katanga, soit la région la moins touchée par les conflits. En étudiant un groupe d'acteurs publics

et privés très influents dans la province, nous décrivons dans ce chapitre comment leur collaboration a évolué dans une direction différente de celle prévue par les mesures.

Le chapitre 6 étudie comment l'accès au commerce des minerais à Bukama s'est redessiné suite à la mise en œuvre des réformes relatives aux minerais de conflit. Nous y montrons comment la portée territoriale restreinte de l'État central et l'absence de cadre juridique clair ont provoqué l'émergence de dispositions d'accès localement négociés, et comment l'autorité pour l'octroi d'accès s'est déplacée vers des institutions étatiques locales.

Le chapitre 7 aborde la position des institutions publiques locales vis-à-vis des citoyens et du secteur privé. Ce chapitre décrit comment les nouvelles réglementations relatives aux minerais de conflit ont eu pour effet l'extension de l'appareil d'État local, ainsi que l'installation d'acheteurs de minerais à grande échelle dans les zones minières de Bukama. Nous examinons comment ces changements ont modifié la dynamique de la gestion – y compris le rôle du secteur privé dans la gestion des ressources naturelles –, et comment elles ont modifié les relations entre les institutions publiques locales et la population minière.

En étudiant les effets des interventions liées aux minerais de conflit sur la dynamique des ressources naturelles au Congo, cette thèse vise à contribuer aux débats académiques suivants :

- le débat portant sur l'analyse des politiques publiques ;
- le débat portant sur la gestion dans des situations de conflit caractérisées par un État au rôle restreint ; et
- le débat concernant les politiques relatives aux minerais de conflit, pris dans un sens plus général.

Enfin, cette recherche a relevé une ambiguïté présente dans les objectifs des réformes. L'élaboration d'une politique relative aux minerais de conflit résulte de l'intention commune de promouvoir la paix et de mettre fin aux souffrances humaines dans les zones minières congolaises. Or, les conclusions montrent qu'il n'est pas toujours évident de combiner les deux objectifs distincts que sont la diligence raisonnable (*due diligence*) et l'amélioration des conditions dans les petites communautés d'exploitation artisanale à petite échelle. Au fil du temps, les pratiques de réforme semblent avoir surtout contribué à détacher des conflits l'approvisionnement en minerais, ce qui soulève la question de savoir si le développement d'un produit traçable hors conflit a pris plus d'importance que l'amélioration de la situation de la population congolaise.

Nous avons constaté que, même si les réformes relatives aux minerais de conflit ont permis la mise en place de chaînes commerciales clairement organisées et qu'elles ont, par conséquent, contribué à augmenter le contrôle, les réformes ont également rendu plus obscurs et complexes les ordres de gestion locaux. L'introduction d'exigences relatives aux minerais de conflit a entraîné une nette extension du rôle des services publics locaux : il revient à ces acteurs locaux de gérer toutes les transactions commerciales minières à tous les niveaux de la chaîne d'approvisionnement en minerais. En conséquence, cet appareil d'État local a étendu son autorité et de nouveaux dispositifs ont émergé. Ceux-ci sont acceptés localement mais non

reconnus au niveau national, ce qui a conduit à une multiplication des cadres réglementaires au niveau local.

En ne fournissant pas à cet appareil d'État local étendu le soutien financier et logistique nécessaire, l'État central a favorisé passivement un État prédateur local dans les zones minières 3T, ce qui a lourdement pesé sur les communautés locales d'exploitation minière artisanale. Elles ont ainsi été confrontées à une augmentation de la pression fiscale et au harcèlement de la part de fonctionnaires civils locaux. Simultanément, les réformes ont considérablement détérioré la position de ces communautés, car les réformes ont redessiné les voies commerciales au profit de gros acheteurs de minerais internationaux au détriment des communautés minières. Celles-ci ont vu diminuer leur accès au commerce minier et s'affaiblir leur position de négociation.

Au final, c'est l'État central congolais qui semble avoir bénéficié le plus des réformes relatives aux minerais de conflit. Le contrôle accru du commerce des minerais 3T a en effet renforcé la capacité de l'État à prélever des taxes sur le commerce artisanal des minerais. L'intérêt de l'État central pour ces initiatives n'a pas facilité la gestion *locale* des ressources naturelles.

Cette recherche a révélé que l'État central, en contribuant de manière minimale aux investissements et aux efforts de fonctionnement de l'État local, et en laissant des acteurs privés à Bukama financer l'appareil d'État local et fournir des services publics aux communautés minières artisanales, a réussi à maintenir son pouvoir et s'est assuré la collecte de revenus sur le territoire. Notre étude en arrive à la conclusion que cette « gestion par décharge » n'a pas seulement entravé l'établissement d'une relation légitime État-société, mais qu'elle a également brouillé les frontières entre les domaines public et privé. De cette manière, elle a érodé la transparence, évitant ainsi la responsabilité publique et rendant finalement complexes les questions de légitimité.

La thèse se termine par des recommandations pour l'amélioration de la politique relative aux minerais de conflit, afin d'apporter des améliorations tout en réduisant les effets négatifs. Pour éviter que s'aggravent encore les pratiques de gestion préjudiciables, nous recommandons que les décideurs politiques soient plus réalistes lorsqu'ils définissent les rôles des autorités de l'État congolaises dans ces réformes.

Nous recommandons également que les évaluations de la politique publique voient au-delà des effets de la militarisation dans les provinces touchées par les conflits. Il faudrait qu'elles évaluent dans quelle mesure les initiatives ont laissé une empreinte plus grande sur la gestion et les moyens d'existence des communautés minières situées dans la province du Katanga, alors que cette province est moins touchée par le conflit. Enfin, nous formulons le souhait que les réformes puissent élargir leur objectif prioritaire. Si les initiatives de réforme entendent améliorer la situation des communautés minières artisanales, il faut qu'elles voient au-delà des chaînes d'approvisionnement et qu'elles visent une réforme plus large du secteur minier artisanal.

Ce type d'approche élargie devrait inclure la conception de réglementations fiscales transparentes pour l'exploitation minière artisanale et à petite échelle, la promotion d'une véritable représentation des intérêts des mineurs artisanaux, l'élaboration de cadres juridiques clairs pour l'accès à l'extraction minière artisanale et le renforcement, au sein de la législation congolaise, des droits de propriété pour l'exploitation minière artisanale et à petite échelle.

Photo: Jose, A. Diemel, April 2014, truck drivers camping next to their broken truck on the national road to Bukama, Lubudi district, Lualaba, DRC



Appendices

Appendix I: Fieldwork periods and locations, 2013–2016

Fieldwork period	Fieldwork location
February–March 2013	Lubumbashi and Lubudi
April 2013	Kinshasa
May 2013	Organisation for Economic Co-operation and Development/International Conference on the Great Lakes Region conference, Paris
February 2014–May 2015	Lubumbashi city
April 2014	Lubudi (Busanga mine site)
June 2014	Organisation for Economic Co-operation and Development/International Conference on the Great Lakes Region conference, Paris
September 2014	Bukama (Luena and mine sites)
October 2014	Kalemie
October 2014	Lubudi (Busanga mine site, together with Down to Earth programme team)
November 2014	Lubudi and Bukama (Luena and mine sites)
December 2014	Kinshasa (including Organisation for Economic Co-operation and Development/International Conference on the Great Lakes Region conference)
February 2015	Bukama (Luena and mine sites)
May 2015	Organisation for Economic Co-operation and Development/International Conference on the Great Lakes Region conference, Paris
February–April 2016	Lubumbashi
March 2016	Bukama (Luena) (by research assistant)
March 2016	Kalemie (by research assistant)

Appendix II: Overview of publications

- Cuvelier, J., J. Diemel and K. Vlassenroot. 2013. "Digging Deeper: The Politics of 'conflict minerals' in the Eastern Democratic Republic of the Congo." *Global Policy* 4(211): 449–451.
- Cuvelier, J., K. Vlassenroot and J. Diemel. 2014. "Congolese Conflictmineralen Maken Onverwachte Slachtoffers." *MO Mondiaal Nieuws*, September 2014. www.mo.be
- Diemel, J. and J. Cuvelier. 2015. "Explaining the Uneven Distribution of Conflict Mineral Policy Implementation in the Democratic Republic of the Congo." *Resources Policy* 46(2): 151–160.
- Diemel, J. 2015. "Introduction to Conflict Mineral Initiatives." *Mining and Business Magazine*. Lubumbashi, Democratic Republic of the Congo, October 2015.
- Diemel, J. 2016. "The 3T Mineral Supply Chain." *Mining and Business Magazine*. Lubumbashi, Democratic Republic of the Congo, February 2016.
- Diemel, J. 2016. *From Paris to Katanga: Conflict Mineral Policy and the Reform of Artisanal Mining Governance in the Democratic Republic of the Congo*. Research brief number 13. Wageningen: Wageningen University & Research.
- Diemel, J. 2016. *De Paris au Katanga. Mesures Politiques Relatives aux Minerais de Conflit et Réforme de la Gouvernance du Secteur Minier Artisanal en République Démocratique du Congo* [Translation]. Research brief number 13, Wageningen: Wageningen University & Research.
- Diemel, J. 2016. "Explaining the Uneven Distribution of Conflict-mineral Policy Implementation in the DRC. The Role of the Katanga Policy Network." YouTube video, August 2016. www.har-tv.org
- Hilhorst, D., J. Cuvelier, M. Bashwira Nyenyezi, J. Diemel and C. Iguma Wakenge. 2016. *Down to Earth: Governance Dynamics and Social Change in Artisanal and Small-scale Mining in DRC*. Research brief number 16. Wageningen: Wageningen University & Research.
- Hilhorst, D., J. Cuvelier, M. Bashwira Nyenyezi, J. Diemel and C. Iguma Wakenge. 2016. *Revenir à la Réalité. Dynamiques de Gouvernance et Changement Social dans l'Exploitation Minière Artisanale et à Petite Échelle en RDC* [Translation]. Research brief number 16. Wageningen: Wageningen University & Research.
- Diemel, J. and D. Hilhorst. 2017. "Unintended Consequences or Ambivalent Policy Objectives? Conflict Minerals and Mining Reform in the DR Congo." *Development Review Policy*. (Accepted for publication)
- Diemel, J. 2017. "Authority and Access to the Cassiterite and Coltan Trade in Bukama Territory (DRC)." *The Extractive Industries and Society*. (Accepted for publication)
- Diemel, J. 2018. "Natural Resource Governance 'by Discharge' and Local State Legitimacy in Bukama, Democratic Republic of Congo." *Journal of Eastern African Studies*. (Submitted, under review)

Appendix III: Presentations at academic conferences and summer schools

- Diemel, J. 2012. "Formalization of Artisanal Mining and Hybrid Governance in Eastern DRC." Paper presentation for the "Natural Resource Governance in Eastern DRC" panel at the CERES Summer School, organised by the University of Amsterdam, the Netherlands, 25–26 June 2012.
- Diemel, J. 2013. "Spatial Aspects of 'Conflict-mineral' Policy Implementation in DRC. Katanga's Closed Pipelines as 'Pockets of Policy Implementation.'" Paper presentation for panel 21 at the 5th International ECAS Conference in Lisbon, Portugal, 27 June 2013.
- Diemel, J. 2014. "Authority in Katanga: The 'Right' and the 'Ability' to Benefit from 3T Mineral Resources." Paper presentation at the "Governance at the Edge of the State" summer school, organised by the Conflict Research Group of the University of Gent, Belgium, 15–18 September 2014.
- Diemel, J. 2014. "L'Application Inégale du Programme de la Traçabilité entre le Katanga et le Kivu." Paper presentation at an academic seminar organised by the Observatoire du Changement Urbain, Université de Lubumbashi (UNILU), Democratic Republic of the Congo, 13 October 2014.
- Diemel, J. 2015. "L'Encadrement of Artisanal Miners in Kisengo and Kyenze. Everyday Governance and the Moral Economy of Katanga's 3T Mine Sites (DRC)." Paper presentation at the conference entitled "Development 2.0 or Business as Usual?" organised by the Institute of Development Policy and Management (IOB), Antwerp, Belgium, June 2015.
- Diemel, J. 2016. "The International Community's Demand for Traceability and the Transformation of Property Rights and Access Mechanisms in the 3T Mineral Sector of Bukama, Haut-Lomami (DRC)." Paper presentation for the panel entitled "Africa as a New Frontier? Extractive Economies and Re-configurations of International Justice" at the 51st AUSA Conference in Cambridge, United Kingdom, 7–9 September 2016.
- Diemel, J. 2017. "Impact of Mining Reforms on Governance of Artisanal Mining in DRC." Presentation (with Jeroen Cuvelier) at the international conference entitled "Unintended Effects of International Cooperation," organised by the Dutch Ministry of Foreign Affairs and the Radboud University (Nijmegen), The Hague, 16–17 January 2017.

Appendix IV: Curriculum Vitae

Name: Jose Alice Diemel
 Date of birth: 4 February 1984
 Address: 3, Avenue Nzilo, Lubumbashi, DRC
 Email: josediemel@gmail.com

Summary

Currently based in Lubumbashi (Katanga, DRC), I work as an artisanal and small-scale mining (ASM) specialist for the Eurasian Resources Group–Africa (ERG Africa). Fascinated by the combination of social-economic development and private sector solutions, I am delighted to be working in the sustainability department. Together with a team of enthusiastic and skilled colleagues, I work on development projects for responsible and sustainable minerals, setting up ASM management systems in line with international good practice.

Apart from my current position in the corporate sector and my academic background in international policy analysis at the Erasmus University of Rotterdam, I have also gained experience in the public sector, working as a policy officer at the Dutch Ministry of Foreign Affairs

I am committed to my work and always keen to bring new projects to a successful end. I have excellent intercommunication skills, and I feel comfortable working in international settings with a wide variety of stakeholders. I am fluent in Dutch and English, and I have good professional working proficiency in French and Spanish.

Work experience

Eurasian Resources Group–Africa **Safety, Health and Sustainability Department** **Artisanal and Small-scale Mining Specialist**

July 2016–present

Responsibilities: Designing and implementing an ERG Africa ASM strategy and management system; developing and implementing VPSHR training for all ERG Africa security staff; providing guidance for ERG site management in their dealings with illegal artisanal mining activities; designing and implementing a socioeconomic survey measuring the impact of ERG Africa's CSR programmes (sample size = 4000 households, 36 surveyors); conducting contractor management; assisting in response to international client audits on responsible sourcing.



University of California, Berkeley
Center for Effective Global Action Policy Report
Scientific Research Consultant
September–December 2016



Responsibilities: Providing scientific assistance in questionnaire development, surveyor training and data quality control for a Berkeley research project aiming to estimate the effect of ‘sustainable mineral sourcing’ policies on local communities in the DRC; providing a representative statistical understanding of communities’ economic living conditions, including the prevalence of child labour.

Partnership Africa Canada
(in collaboration with PAC/IOM/USAID/ICGLR)
Consultant/trainer
June 2014



Responsibilities: Training 30 DRC state officials on export procedures for issuing International Conference on the Great Lakes Region regional mineral certificates (Bukavu and Maniema, DRC).

Erasmus University Rotterdam
International Institute for Social Studies
PhD Candidate
2012–Present



Responsibilities: Studying the impact of transnational responsible sourcing policies (United States Dodd–Frank Act; OECD Due Diligence Guidance) on Congolese natural resource governance; conducting qualitative research combining political science and ethnography; conducting research at international policy platforms and DRC artisanal mine sites; presenting work at international academic and non-academic conferences (OECD, ECAS, ASAUK, Dutch Ministry of Foreign Affairs).

Ministry of Foreign Affairs, Netherlands
Policy Officer (Peace-building and Stabilisation Unit)
November 2011–February 2012
March 2010–August 2010 (Trainee)



Responsibilities: Organising inter-departmental committee meetings for the Dutch Stability Fund (EUR 90 million yearly budget); managing and evaluating project proposals; writing speeches and preparing dossiers for the department heads and general directors.

TRIAS Consultancy, Netherlands**Program Officer**

December 2010–September 2011

Responsibilities: Developing and managing projects; preparing an ORIO (Organisatie voor Infrastructuur ontwikkeling: *the Facility for Infrastructure Development*) grant application (Eur 1 million plus proposals) concerning public transport development in Lubumbashi, Katanga (DRC)

**Grupo Nacional de Trabajo para la Participación****Santa Cruz, Bolivia****Trainee**

May 2009–August 2009

Responsibilities: As part of a bachelor's thesis, assisting in mapping land conflicts between indigenous communities and industrial cultivation companies; conducting fieldwork on land conflicts in rural communities in San Ignacio de Velasco Province.

Education**Radboud University Nijmegen, the Netherlands**

Master of Science (MSc) in Human Geography (cum laude)

'Conflicts, Territories and Identities' Programme

2008–2010

**Université Pierre Mendès-France (Grenoble II), France**

Erasmus exchange semester (cum laude)

2008

**University of Groningen, the Netherlands**

Bachelor of Arts (BA), International Relations (with honours)

2004–2008

**University of Groningen, the Netherlands**

Propaedeutic History (with honours)

2003–2004

Mining Reform, Governance and the State in the Democratic Republic of the Congo

The traces 'conflict-mineral' policy left behind on natural resource governance in Katanga

Since the early 2010s, a wide range of conflict-mineral policy reforms have been implemented in the Democratic Republic of the Congo, aiming to prevent the trade in coltan and cassiterite from financially contributing to armed conflict.

The objective of this dissertation is to provide insight into the processes through which conflict-mineral policy has become negotiated into Congolese realities and the traces those reforms have left on Congolese natural resource governance orders.

The dissertation approaches policy as a socially constructed process, drawing specific attention to the negotiation that occurs when policy enters a new reality. Taking a multi-sited political ethnographic approach, this research followed conflict-mineral policy along the mineral supply chain to study the every-day governance practices, narratives of and interactions between state officials, mining communities and mineral buyers at a range of research sites stretching from; the coltan and cassiterite mines of Bukama Territory, to the mineral trading hub of Luena, to the mineral export depots and administrative offices of Lubumbashi and Kalemie.

In studying these negotiations and their outcomes, this research aims to understand what these processes tell us about the interests and repertoires of the state and non-state actors involved.

