

Towards a comprehensive mining strategy for the DRC?

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Former Minister of Mining Willy Kitobo summarizes in a recent book what he considers to be the main problems of the DRC mining sector¹. He rightly underlines the largely insufficient geological data about the DRC's mining resources, problems related to the correct implementation of the 2018 mining code, challenges of industrial and artisanal exploitation, and finally the huge environmental problems caused by mining practices in the DRC. While these issues are obviously important, they overlook the national and international political and economic context that frame the choices available to a government in this matter.

A narrowing of political to technical problems characterizes the nature of official public debate about the mining sector in the DRC. The strategic choices for the mining sector made by and for the country, on a short, medium and long term, if any, are almost never debated, not only to hide the decisions taken from the public eye, but probably also because the necessary analysis has not been undertaken. Expertise in the academic community for the major part remains technical. Civil society very partially makes up for this gap, but even then, their activity is almost always issue-based and tied to funding for a particular project. Still, civil society for natural resources has developed over the years an impressive level of competence in issues of mining governance. Unfortunately, their expertise is not valued and used beyond the relatively short timeframes they must work in.

In the following policy brief, I would like to argue for the need of a multidisciplinary centre of analysis, think tank or university research centre, functioning in a network with

civil society organisations, as a necessary but not sufficient condition for the elaboration of a comprehensive mining strategy in the DR Congo, and as a critical element for the DRC to recover its autonomy.

The following questions will be addressed: why is there a need for a comprehensive and permanent mining strategy? What expertise is available to provide inputs for it, in state enterprises, academia and civil society? How did this expertise come about, especially for civil society? What are its characteristics? How can we efficiently use this expertise by combining academia and civil society? What are the requirements to create a research and analysis network to this end?

1. THE NEED FOR A COMPREHENSIVE MINING STRATEGY

The country's dependence on the mining sector

It goes without saying that the DRC's economy depends, for better or for worse, on the mining sector. According to Central Bank figures,² the mining and hydrocarbons sector accounts for 99.3% of the country's export earnings and 27.8% of GDP. For decades, economists have been advocating the need for diversification of the economy, yet manufacturing accounts for a mere 11.5% of GDP and industrial and energy products for 0.1% of export earnings. Moreover, this dependence is reinforced by the volatility of commodity prices, which poses a challenge for revenue management and for the sector as a whole. The mining sector is clearly vital to the country, and its major companies in Katanga are crucial to state revenues.

Decisions affecting this sector have nationwide direct or indirect consequences. Governance of this sector including a short, medium and long strategy is thus obviously of critical importance for the DRC.

Moreover, it is well known that the DRC ensures 68% of the world production of unrefined cobalt and 43% of tantalum (with Rwandan exports even 60%). This provides the country in principle with a strong negotiating position, making strategic thinking worthwhile.

Is there no mining strategy for the DRC?

To be sure, efforts have been made in DRC strategic planning for the mining sector. While the first strategic plan ever for the mining sector was elaborated through the World Bank funded Promines project.³ This plan was never politically endorsed and was almost not implemented.⁴ More recently, a Strategic Development Plan for the Mining Sector (2022-2026) was adopted as part of a new program-based national budgeting system which should, at least in principle, provide a better guarantee for its implementation because it is now part of the program of the national government.

The 2022-2026 strategy mainly uses expertise from inside the Ministry of Mines, defining a sector-specific policy based on internal indicators. It underlines the technical deficiencies of the sector as e.g. lack of geological data, lack of funding and training for the mining administration, largely insufficient logistics etc. Its proposals concern mostly the means for a correct implementation of the mining code and regulations. It suggests associating civil society to the implementation of the strategy (support for its local appropriation support for mobilisation of financial resources, monitoring of program and project execution) rather than to its conception. The Ministry of Mines is clearly confronted with basic management problems in the first place. A more comprehensive and integrated mining strategy, considering the international and regional environment, is still to be defined, and is necessary.

The need for a more comprehensive mining strategy

Implementing a strategy is a permanent process and cannot be limited to the drafting of a document or an indicative plan. It must be based on verifiable data, broad national expertise and public debate. Concerning data, the country finally set up a National Geological Service in 2018, but it receives very little funding. Disposing of vast geological data about the country's mineral potential is obviously a precondition to recover national independence. In the past, Gécamines systematically explored potential deposits as part of a multi-annual planning, considering changes in the company's potential and market trends. At present, this effort is non-existent, and exploration is the monopoly of the private companies coming to exploit all possible deposits, which puts the State in the position of spectator rather than planner.

Public debate exists, but it is limited to civil society, which generally denounces cases of corruption or human rights abuses. It is not or little involved in the development of a medium- and long-term strategy. Parliamentary debates on mining strategy are, to my knowledge, rare and linked to the few commissions of enquiry whose findings are not always debated publicly.

Developing a comprehensive strategy requires sound multi-disciplinary expertise which integrates technical, political, social and economic parameters at the national and international level. National expertise is to be found within private companies, in the national and provincial state administration and, all too rarely, in the academic world. The role academics should play is, in fact, taken over by national and international civil society. The following takes a quick look at these various levels.



2. MINING EXPERTISE IN THE DRC

What happened with public sector expertise?

The wave of privatisations that began in 1995-96 and accelerated after the introduction of the new mining code in 2002, which is very liberal for private companies,⁵ also deprived the State of its mining expertise. The country's economy was also disintegrated at the end of the devastating 1998-2002 war, following which the privatisation policy was reinforced to attract new investors. The dismantling of the copper and cobalt mining state company Gécamines, which started already under Laurent Kabila and its formal privatisation in 2010, meant that its extensive mining expertise was absorbed by private companies, making it inaccessible to the State.

The national expertise in the mining sector is currently concentrated in the Ministry of Mines, more specifically in CTCPM (Technical Coordination and Mining Planning Unit) and the General Secretariat, but its staff and resources seem to be far below the level the State would need to develop a mining strategy suited to the size of the country and its potential.

The risk in neglecting national expertise is obvious: in addition to the DRC's weak negotiating capacity when it comes to international contracts, there is the risk of manipulation of contracts to suit private interests, concealment of essential information (such as the real results of geological exploration of a site by a private company) and corruption. Is this situation not partly to blame for the country's unfair contracts? How can it be explained that the DRC had an efficient network of public companies with an entire educational and social infrastructure, and that today the population in many places is reduced to a situation of virtual slavery within a mining economy of national and international predation?

The emergence of civil society expertise

Over the last 25 years, civil society in the DRC, which played a leading activist role during the 1990s leading up to the fall of the Mobutu regime, has gradually become an expert, well-organised voice that the authorities must increasingly consider. Let us take a very quick look at some of these developments.

- **Two regional wars: for mining?**

When the DRC government under Prime Minister Kengo Wa Dondo started a privatisation policy in 1995,⁶ still the already strong civil society movement was too busy with more pressing political issues. The arrival of the AFDL movement which toppled Mobutu, with a number of Canadian and Australian mining players in its wake,⁷ raised suspicions that this war was actually being waged to secure access for international mining operators to the DR Congo's as yet little-explored deposits. This was an initial impetus for civil society associations to start analysing developments in the mining sector.

However, with the overtake of power by Laurent Kabila, civil society's room for manoeuvre narrowed considerably. Professor Bahati Lukwebo and his civil society platform SOCICO were integrated into government structures to represent a fake civil society and to keep militant civil society out of the field.⁸ In East-Congo, during the occupation by the RCD and MLC rebel movements during the 1998-2002 regional war, very courageous initiatives to denounce militarised looting were taken by local civil society players such as the OGP (Peace and Governance Observatory) with Eric Kajemba in Bukavu, Pierre Lumbi's Governance and Transparency Observatory and Asadho/ACIDH (African Association for the Defence of Human Rights/Action Against Impunity for Human Rights) in Katanga. Nor should we forget the essential role played in this awareness-raising process by the United Nations group of experts, whose first report was published on 12 April 2001 (S/2001/357).



- **The new mining code and revisitation of mining contracts**

At the instigation of the World Bank, the Kabila government proclaimed a new Mining Code in 2002. Faced with an economy devastated by a long war, the regime had little choice but to accept a very liberal mining and investment code that gave investors virtually free rein. Throughout this process, the country implemented a mining code and policy according to a model imported from elsewhere, without considering the specific Congolese situation.⁹ The most profitable assets from public mining companies were transferred to joint ventures with private companies holding a majority share, reducing the public companies' exploitation activities to an almost non-profitable minimum and leaving them with the remaining mining titles.¹⁰ Officials coming from outside the public companies who did not share their work ethics and vision were appointed as CEO or as members of the board of directors.

This development motivated civil society organisations to start investigating the content of the mining contracts. Their involvement started after an effort was launched to examine or "revisit" the mining contracts signed since the first and the second Congo war. The idea was to check whether the contracting companies had not taken advantage of the war situation to impose unfair conditions. One of the impetuses for this revisitation was the second report of the United Nations Panel of Experts on the Illegal Exploitation of Natural Resources, which called for a review of the contracts signed during the war, as well as two resolutions of the Inter-Congolese Dialogue in Pretoria. In response to these resolutions, the Transitional National Assembly set up a Special Commission, which published the "Lutundula Report" on 26 June 2005, although it was not debated by the Transitional National Assembly at the time. This initiative was the first of a series of "revisitations" during the 2005-2009 period but whether this process has in practice led to more favourable terms for the DRC has not been systematically assessed yet.¹¹

- **Towards an expert civil society**

One of the first civil society organisations to be involved in "revisitation" was the Catholic Church through the Jesuit-run CEPAS (Centre for Studies on Social Action) and the Mining Governance Program of the Carter Center, both in the analysis of the terms of the contested contracts. From then on, the findings of the UN group of experts could gradually link up with advocacy through a network of national and international NGOs, which in the end was able to impose itself on the government authorities.

During the following period, the work of the Carter Center was essential, as it trained many civil society experts in the mining sector and became one of the few high level expert organisations on industrial mining governance in the DRC. Other important organisations as SARW (Southern Africa Resource Watch) began its programme in 2007 and NRG (Natural Resource Governance Institute) in 2015. The Catholic Church remained committed through its Episcopal Commission for Natural Resources (CERN). These organisations have been able to attract funding for critical analysis of the mining sector by civil society.

This network has grown stronger over the years, especially from the 2010s onwards, when a number of conflict minerals certification initiatives were launched, along with funding for civil society to monitor the process. Civil society set up thematic mining groups and even platforms for sustainable investment, such as IDAK (Durable Investments in Katanga) and IDAKI (Durable Investments in Kivu) (since January 2016). There is also the alternative Mining Indaba, which has become an essential annual meeting for civil society players. Thanks to the expertise and strategy of this civil society, cases of major corruption in the sector are sooner or later revealed, and human rights abuses by certain unscrupulous companies denounced. Unethical contracts and practices that are detrimental to the interests of the population are dissected. Their action has at least created a critical voice that the authorities must heed, if only through the resonance of the many reports in international opinion. Civil Society includes currently a large number of real experts who often have a better grasp of the issues than

the administration. They have played an important role in the development of certain issues, such as the reform of the mining code in 2018, particularly with regard to its social aspects. Unfortunately, they still all rely on funding by foreign donors.

What about research

- **Why academic research?**

There are several reasons why research is necessary: first of all as a basis for developing a mining strategy and as a foundation for public debate. Developing and implementing a strategy means taking the initiative and not simply being subject to external influences and actions. Creating an environment that attracts responsible investment while taking account of market requirements, rather than relying on offers made without a selection and reception strategy.

This requires comprehensive, up-to-date information and good analytical skills. A sound mining strategy and monitoring considers global developments in the mining sector: market changes, changes in supply and demand for minerals, the mining strategy of other producing countries, technological developments, etc. Analysis of these factors will be sector-based, depending on the products offered and demanded, but also geopolitical, given that the mining issue has become strategic for the major powers. Another challenge is spatial. Knowledge of what is happening in the Central African region and on the African continent is clearly inadequate within the DRC. More generally speaking, the DRC is still a victim of colonial isolation, where the population in important DRC border cities have limited knowledge about what is happening in their neighbour country. To understand the DRC regional and continental position, it is necessary to keep a close watch on current (and past) mining operations across the African continent, where the main players are often the same.

In-depth knowledge of the players is essential. If one wants to defend the country's interests against the interests of investors, you need to know who you are dealing with. A

company like Glencore, with sales of USD 220 billion in 2018, (about four times the DRC's GNP), is more powerful than governments, and adopts a global strategy in which the DRC is just a pawn. For the DRC to be efficient, it must understand the logic they follow in wanting to invest in the Congo, and the resources they control, to reach truly win-win agreements. Glencore, for example, is one of the first trading companies to have gone beyond the global buying and selling of raw materials, but it has invested in transport infrastructure, logistics and, finally, production units inside the DRC. The company's listing on the stock exchange in 2011 opened it up to the capital market (the operation raised USD 10 billion in capital) and enabled it to continue its expansion. Its economic and political power is enormous and monitoring by the government is very difficult. A thorough knowledge of their strategy, international environment, weaknesses and strengths is necessary if the DRC government wants to be able to underwrite fair contracts and to monitor their action. Finally, mobilisation and training of the DRC expertise as part of a research centre could significantly contribute to the improvement of competences in tricky negotiation process to avoid the undersigning of lopsided contracts.¹²

Research also serves as a solid, scientific foundation for public debate. In a world where conspiracy theories and unsubstantiated rumours on so-called "social" networks are replacing arguments based on facts, we need benchmarks to guide a public debate that aims to be objective, in the name of defending the interests of the Congo and its people.

During the 1990s, there was renewed interest in raw materials and the mining sector centred on the various conflicts fuelled by natural resources, starting with the role played by diamonds (Sierra Leone, Liberia, Angola, DRC...), which led in 2003 to the Kimberley Process. Organisations such as Canadian PACT have combined research and action. Belgium saw the birth of IPIS, which, as its name suggests, carried out studies on war and peace, but developing gradually a second tier on the artisanal mining sector in conflict zones. Their empirical analyses and mapping exercises made IPIS an international reference in the field.



The academic community developed an interest in the mining sector governance, in Belgium, with the Centre d'Etudes de la Région des Grands Lacs at the University of Antwerp publishing the "Annuaire des Grands Lacs" which produced a first series of academic analyses, followed by PhDs. This development led to the creation of the CEGEMI, an "expert centre in mining management" tied to the Catholic University of Bukavu which carries out high-level studies on the artisanal mining sector and publishes in international journals. Within the DRC however, there is no research community or research centre focusing on the industrial mining sector.

- **Research by civil society**

Investigations by civil society organizations could be very useful as inputs for academic research. With the partial exception of CEGEMI, the national expertise on the governance of the industrial mining sector in the DRC is mostly to be found within civil society. However, the nature of their work is limited by the requirements of their donors, who most often consider research as the basis for advocacy. Case studies on ongoing events focus on issues as corruption, human rights violation, pollution, respect of the mining code etc. and are followed by advocacy with stakeholders to try and redress the wrong done. Once the report is published and the donors are informed, the report is filed, and the case closed. Some NGO's drafted more comprehensive reports, but they are most often empirical rather than analytical. Still, NGO work includes in many instances valuable elements of field research which could very usefully be integrated into more analytical academic work.

3. NETWORKED RESEARCH CENTRE ON THE MINING SECTOR

The network: research and civil society

The research done by civil society organisations, most often recorded in rapidly forgotten reports, could be consolidated by academic research, the latter providing a more general framework that will enable the case studies to be put into a broader analytical perspective.

For example, the actions of illegal Chinese companies need to be placed within the general framework of the development of China's mining and more general foreign policy strategy, which will make it possible to assess the scope for action. Or look at the foundations and supports of a company like ERG (Eurasian Resources Group) to identify the levers that need to be activated. Analyse the activities of a company in the context of the overall development of the sector, etc.

The research analysis framework will also oblige civil society to substantiate its claims and respect the facts, which is useful when civil society organisations, as it may happen, are manipulated by one stakeholder to attack another by a selective use of their findings. Conversely, civil society will be able to provide empirical evidence from the field that will feed into academic analysis on an almost continuous basis. Civil society will prevent research from becoming abstract and detached from reality. This combination will add value to Congolese research and give it a link with practice. Practice – by civil society actors – will be prevented by research from becoming detached from the broader context of the mining sector and its imperatives.

Fundamental requirements

What are the basic requirements for such networked research centre or unit? **Interdisciplinarity is a must.** Important disciplines include political and international economy, sociology, political science and international relations, anthropology, geology, public health, environmental sciences, agronomy, history, etc. This interdisciplinarity, if well managed, will make it possible to develop a global and in-depth view of the mining sector, and will prevent each discipline from becoming locked into its own point of view. If, for example, geologists tend to uncritically support any industrial mining project, agronomists and economists will be able to assess the risks and benefits and develop potential alternatives to mining. If sociologists analyse the social repercussions of mining, environmentalists can highlight the social impact of environmental effects. If human rights defenders can point to human rights abuses in a company, economists

can calculate the contribution of that company to the national economy. The DRC has important technical expertise (geologists, environmentalists etc) but nowhere is this linked up with economic and foreign policy or with societal consequences.

A second requirement is **documentation and access to information**: specialist publications are expensive and in themselves justify inter-university collaboration to share the costs. Access to information also requires the development of a vast network of personal relationships inside and outside the Congo. The necessary networking with universities around the world may be facilitated by the publication of an interdisciplinary, inter-university and bilingual journal.

A third requirement is **networking with civil society**. A research and civil society network will undertake joint projects, in appreciation of each other's contribution. The existing prejudice that civil society is ignorant of the real issues and the academic world detached from reality must be overcome. Currently, starting from an inventory of the existing expertise, a research environment must be built up around a number of relevant PhDs. Bukavu's CEGEMI research centre may be a model: the latter benefitted from the existence of a very active civil society movement in East Congo. As some of its members started an academic career, networks, albeit informal and non-structured, were created with civil society.

The fourth requirement is the most challenging: **its independence**, an evident necessity for a networked research centre feeding into the formulation of a DRC mining strategy and structuring a well-informed public debate. The temptations of funding by and dependence on private interests are obvious, as are the dangers of submission to public authorities. A centre or network that is not independent immediately loses its credibility. Another challenge is open and efficient collaboration, both between universities and between the academic world and civil society, overcoming mutual distrust. This can only be obtained by a focus on the objectives and the results rather than on personal positioning, by an attitude of openness and humility on both sides.

A final and important challenge is **funding**. Mixed funding evenly distributed between donors is key to protect an institution's independence, more specifically towards the government. Project-based funding could avoid this, provided that a solution can also be found for the salaries of permanent staff and operating costs: here the government and funding bodies will have to be realistic.

Expected results

The creation of a networked research centre is obviously a necessary but not sufficient condition for the development of a sound mining strategy that will take account of all the aspects and impacts of the sector. The authorities in the first place need to effectively consider the produced analyses: this is an important challenge in a country where universities are rarely consulted on policy matters. At a further stage, research into how a strategy can be implemented (or not) will prove very useful. Examples of a few fundamental problems to which a networked interdisciplinary inter-university centre could provide possible solutions include:

- The over-dependence of the country's economy on the mining sector and the need for diversification.
- The need to combine a mining strategy with an agricultural strategy to ensure sufficient local production and minimally acceptable living conditions for the rural population; here we come up against the thorny problem of land law.
- The problem of taxation in the artisanal mining sector, which encourages fraud and smuggling to neighbouring countries.
- Solutions to the problem of child labour and pregnant women in the mines, because some donors seem to prefer to treat the symptoms rather than the root of the problem.

Even if these challenges are not easy to overcome, an inter-university centre networking with national (and international) civil society will raise considerably the level of understanding of the issues and dynamics of the national, regional, continental and international mining environment in which the DRC operates. It will make it

possible to launch a public debate based on solid scientific arguments. It will be possible to build up a large database and a considerable body of essential documentation. The centre will considerably strengthen advocacy in favour of reforms in the mining sector and/or in favour of the proper application by stakeholders of legislation in the artisanal and industrial mining sector. The dialogue between the different disciplines and the diversity of approaches will enrich our knowledge and broaden the range of solutions proposed to the problems and challenges.

Finally, it will create a strong voice, listened to at national and international level, where analyses and recommendations are always the work of non-Congolese.

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Endnotes

- 1 Minister of Mining in the national government 2019-2021; Minister of Mining in the Haut Katanga provincial government 2016-2017. Willy KITOBO SAMSONI, *Les défis à relever dans le secteur des mines de la R.D.Congo*, Paris, L'Harmattan, 2022
- 2 BANQUE CENTRALE DU CONGO, *Rapport annuel 2019*, p. 136
- 3 MINISTERE DES MINES – PROMINES, *Plan stratégique du Développement du Secteur Minier « PSDM » 2016-2021*, Kinshasa, 18 March 2016.
- 4 MINISTERE DES MINES, *Plan stratégique de développement du secteur minier (2022-2026)*, Kinshasa, September 2022, p. 20
- 5 Cf. Marie MAZALTO, *La réforme des législations minières en Afrique et le rôle des institutions financières internationales. Le cas de la République Démocratique du Congo*, in Stefaan Marysse and Filip Reyntjens, Ed., *L'Afrique des Grands Lacs. Annuaire 2004-2005*, Anvers/Paris, Centre d'Etudes de la Région des Grands Lacs d'Afrique/L'Harmattan, 2005, p. 263-289
- 6 At that time, joint ventures were created between foreign private companies and Gécamines, but still with a majority share for the government. This policy was abandoned after the war and a majority share for foreign investors accepted.
- 7 For this period see Erik KENNES, *The Mining Sector in Congo : the victim or the orphan of globalisation?*, in *The pitfalls of enforced democracy and globalization: The case of the Region of the Great lakes in Central Africa*, London, Palgrave/MacMillan, 2005
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- 9 Cf. Marie MAZALTO, *De la réforme du secteur minier à celle de l'Etat*, in Théodore Trefon, Dir., *Réforme au Congo (RDC). Attentes et désillusions*, Africa Museum/L'Harmattan, Tervuren/Paris, 2009, p. 176
- 10 See Raphaël NGOY MUSILA, *Les défis de la Gécamines*, self-published, 2014, p. 262
- 11 See Ferdinand MUHIGIRWA, *Bonne gouvernance et secteur minier en RDCongo*, in Congo-Afrique 439, November 2009, p. 678-686; THE CARTER CENTER, *A State Affair: Privatising Congo's Copper Sector*, Atlanta, 2017, p. 30-48
- 12 When in December 2015 the new hydrocarbon legislation was discussed by the DRC Senate, the Senator in charge requested Monusco to provide the commission with expert advice. Due to the very short timeframe, this was not possible. According to insiders, the adopted legislation was heavily influenced by the big petroleum companies in the DRC.





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