Abstract

This thesis examines the resource curse through a study of the relationship between state fragility and resource dependency. The purpose of this thesis is to uncover why illegitimate trade of natural resources occur in Sub-Saharan Africa, despite greater international push for transparency. 3 main questions are posed; 1. Does state fragility impact illegitimate natural resource exploitation in SSA countries? 2. What information does the coltan trade in Congo reveal about illegitimate trade of natural resources? 3. How has the Chinese Gateway impacted the international trade of Congolese mined coltan? To answer these set of questions, a mixed methods research approach is employed. A cross times series regression research design with a data set of 49 SSA countries is used to identify and explain the relationship between two variables IV: Fragile State Index and DV: Exports and Services (% of GDP). A case study on the coltan trade in Congo in relation to Botswana's Diamond Industry, provides a closer look at illegitimate trade, its sources, routes and means of survival. Ultimately this thesis argues that weakened central governments, along with international loopholes enables the illegitimate trade of natural resources.

In loving memory of Angelique Mafundamene

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Grandmother, the alchemist, you spun gold out of this hard life, conjured beauty from the things left behind. Found healing where it did not live. Discovered the antidote in your own kit. Broke the curse with your own two hands. You passed these instructions down to your daughter who then passed it down to her daughter. - Warsan Shire

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ABBREVIATIONS

ADFL	Alliance of Democratic Forces for the Liberation of Congo
ASM	Artisanal and Small Scale Mining
CDMC	Congo Artisanal Mining Corporation
CEI	Independent Electoral Commission
CENI	National Independent Electoral Commission
CNA	Congolese National Army
CNDP	National Congress for the Defense of the People
CTC	Certificate Trading Chains
DRC	Democratic Republic of Congo
FC	Congolese Francs
FDLR	Democratic Liberation Force of Rwandan
FSI	Fragile State Index
GECAMINES	General of Carries and Mining of Congo
ICGLR	International Conference of the Great Lakes Region
MFDP	Ministry of Finance and Development Planning
MIBA	Mining Society of Bakwanga
MINAGRI	Ministry of Agriculture, Fisheries and Livestock
MMEWA	Minerals of Ministry, Energy and Water
MMR	Mining Mineral Resources
MPC	Minerals Policy Committee
MUMI	Mutanda Mining
NDP	National Development Plan
SSA	Sub Saharan Africa
UN	United Nations
ZEA	Artisanal Mining Zones

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-CHAPTER ONE-

I. Introduction

1.1 Puzzle

The underlying question posed by this thesis is why illegitimate trading of natural resources continues to occur despite international initiatives that exist to certify conflict free resources. Beyond establishing a regional theory for the Sub-Saharan region, to answer this question in a more narrow scope, this thesis additionally conducts a case study on the Congo (DRC) to investigate the continuance of illegal coltan trade. The assumption made in this thesis is that illegitimate trading is linked to resource dependency, which in turn is heightened by government fragility. The lack of a powerful central government exposes the state to two broad levels of exploitation 1. Domestic 2. International.

This thesis defines domestic exploitation on the basis of violent opposition, which challenge government centrality and uses the coercive trade of natural resources to fuel their violent opposition. International exploitation is marked by both nations and transnational/ international corporations' support, by means of financing or trade, coercive control of natural resources. The undergirding support of international exploitation comes from the international principle of effectiveness, a norm that permits illegitimate trade, creating loopholes for illegal trade, and enabling the sale of stolen goods by those who gain coercive control of the good. The term illegitimate trade, which refers to pure counterfeiting, factory overruns, grey and parallel market, supply chain infiltrations, product diversions and stolen goods[1], is used to distinguish the trade of natural resources sold by rebel groups and/or any groups who gain coercive control of natural resources for the purchase of trade. By answering the following 3 questions, the variables concerning these proposed links will be revealed to the satisfaction of the initial assumptions.

1.2 Research Questions

1. Does state fragility impact illegitimate natural resource exploitation in SSA countries.
2. What information does the coltan trade in Congo reveal about illegitimate trade of natural resources?
3. How has the Chinese Gateway impacted the international trade of Congolese mined coltan?

1.3 Research Motivation

Sub-Saharan Africa as a region has become a classic example of the natural resource curse, so much so that discourse of resource dependency in the region has been normalized and taken as a natural byproduct of the presence of resource abundance. While scholarship focuses on describing and explaining the problems of resource abundance and dependency, there is an imbalance of critical focus on mechanisms that enable dependency. The importance of the questions raised by this thesis, is that it implicates a broader audience in the pursuit to reduce dependency and ultimately improve development in Sub-Saharan Africa. Given the diversity of SSA region in terms of natural resources and economic size and government type, the revelations

[1] Lolanda D'Amato and Thanos Papadimitriou, "Legitimate vs Illegitimate: The Luxury Supply Chain and Its Doppelganger". *International Journal of Retail & Distribution Management* 41 (2013): 11-12.

of this thesis can function as a blueprint for those resource rich countries whose democracies are fragile and or stagnant. The DRC in particular represents a classic tale of SSA, a country rich with natural resources, equally rich in the inheritance of a post-colonial fragile democracy and international exploitation. This thesis puts forth a narrative that gets to the core of natural resource exploitation in resource rich developing countries and contributes to the campaign to ensure the rights of the Congolese people and those who live in resource rich developing countries writ large. Holding firm to the competing international norm put forth the UN that "The right of peoples and nations to permanent sovereignty over their natural wealth and resources must be exercised in the interest of their national development and of the well-being of the people of the state concerned ".[2]

[2] OHCHR, "UN Resolution 1803". UN Human Rights. December 1962.

-CHAPTER TWO-

II. Literature Review

Explanations regarding the 'curse' of natural resources in Sub Saharan Africa are plentiful and attempt very easily to link the abundance of natural resources with poverty and economic growth. General literature on natural resource curse may assess the economic impact of natural resource abundance, providing economically based solutions to protect those seemingly vulnerable nations from the volatile nature of primary commodity prices, warning against over dependence. The most rudimentary understanding of natural resource curse states that the abundance of natural resources leads to low development.[3].Yet, less questions are raised on how resource rich developed nations secured economic growth and more importantly why resource rich countries are more reliant on the resource industry.[4] Such literature lacks a comprehensive understanding of SSA countries and the impact of political indicators.

When discussing development or merely economic growth in SSA it is important to centralize government due to its destabilizing power and volatility within the region. Doubts have been raised about the direction of causal flow that links resource abundance to low economic growth, due to bad institutions being associated with high scores on a resource abundance indicator[5]. In general literature, when defining resource abundance it is defined as the ratio of resource exports to GDP, generally based on the information for a single year at the beginning of the observation period. This ratio fails to effectively measure abundance and rather

[3] G.T. Nankani, "Development Problems of Mineral-exporting Countries", (Working Paper No.354 for World Bank, 1979).
[4] Hirschman, A.O. "*The Strategy of Economic Development*", (New Haven CT: Yale University Press, 1958).
[5] Christa Brunnschweiler and Erwin Bulte, "Reverse Causality and the Resource Curse: Paradoxes and Red Herrings." *Journal of Environmental Economics and Management* 55, 3 (2008): 284-264.

calculates dependence. As a result Brunnsweilter and Bulte argue that the denominator explicitly measures the magnitude of other activities in the economy. The scaling exercise—dividing by the size of the economy—implies that the ratio variable is not independent of economic policies and the institutions that produce them. Scholars find that the resource dependence ratio potentially suffers from endogeneity problems, and perhaps should not be treated as an exogenous explanatory variable at all in growth regressions. As a result of such an assessment, this thesis places greater emphasis on literature regarding natural resource dependency and quality of institutions to guide its assumptions.

2.1 Natural Resources and Institutions

Literature on institutions and natural resources center the quality of institutions in their analysis. It argues that factors, such as economic growth, are dependent on the allocation of rents from natural resources which is dependent on quality of institutions. Research that delves deeper into the strength of links between economic development and natural resources, find that there is nothing inherent in resource abundance that condemns countries to low growth[6]. In comparison to the manufacturing industry, resource industries are theorized to have lower linkage effects and are less effective in transmitting growth to the rest of the economy[7]. Though it is important to make a historic note that there are and have been countries who perform well with either an abundance or reliance on natural resources. Literature on institutions and natural resource assert that the underlying difference between states that perform well with a reliance on natural resources and states that perform poorly with a reliance on natural resources is institutions. Natural resource

[6] Mikesell, Raymond. "Explaining the Resource Curse, With Special Reference to Mineral-exporting Countries." *Resources Policy* 23, 4 (1997): 191-199.
[7] Mikesell, "Explaining the Resource Curse"

abundance tends to slow down political change and entrenches regimes. An abundance of resources "significantly weakened nascent democratic institutions, repressing political parties so that power is weakly contested, public finances are opaque and corruption both by the elite and bureaucracy is rampant"[8]. Two arguments can be draw out from the theorized link between natural resources and institutions. One argument positions natural resources as intensifiers, amplifying what already exists. So for nations with already existing 'good institutions', natural resources can be a blessing[9]. However for those nations with 'bad institutions' and abundance of natural resources becomes a curse. The long running endogeneity problem that has recently been reexamined and explored has led to a lack of consideration of the link between institutions and natural resource curse. A missing link in the scholarship on institutions and natural resource lies in the lack of instruments for institutions and trade, resulting in biased and misleading estimates. Additionally, the existing literature on the resource curse does not distinguish between, neither, the effect of resource dependence on institutional quality, nor, the interaction effect of resource dependence and institutional quality.[10]

Although some studies suggest that at a certain level institutional quality holds no significant value, other regression tests find it to be significant. The interactive effect with institutional quality is significant at the 5 percent level. These results imply that good institutions can turn the natural resource curse into a blessing. The net effect of natural resource exports on growth performance is given by $-14.361 + 1.540 \times \text{InstQual80}$. In countries with a high level of institutional quality (i.e.,

[8] Richard Auty, *Resource Abundance and Economic Development*. (Oxford: Oxford University Press, 2001).
[9] See US in 1913, Norway 3rd largest oil producer
[10] Paul Stevens, "Resource Impact- Curse or Blessing? A Literature Survey". (Research Paper for Centre for Energy, Petroleum and Mineral Law and Policy, University of Dundee, 2003).

InstQual80 > 9.325), substantial natural resource exports enhance growth performance[11]. The significance of this regression lies in its consideration of institutional quality.

2.2 Fragile State

The assessment of state fragility refers the capacity of a state to rule effectively. The total score of the index is based on 12 social, economic and political indicators that assess Demographic pressures, Refugees and IDPS, Group Grievance, Human Flight, Uneven Development, Poverty and Economic Decline, Legitimacy of the State, Public Services, Human Rights, Security Apparatus, Factionalized Elites, and External Intervention. A state's ability to secure quality institutions is essential to its governing capacity on multiple levels, weakness in any of these indicated areas points to weak institutions**.** Given FSI indicators range and ability to interact both domestically and internationally this thesis focuses on state fragility as a predictor variable, taking the total of all 12 indicators as the study's independent variable. The fragility of the state is important in assessing natural resource curse within the context of this thesis due to its comprehensive method of examining a state on the two levels which guide the scope of this theory, domestic and international. Due to indicators like Legitimacy of State and External Intervention, which are defined as "corruption and lack of representativeness in the government directly undermine the social contract" and "when the state fails to meet its international or domestic obligations, external actors may intervene to provide services or to manipulate internal affairs[12].

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[11] Rabah Arezki and Frederick van der Ploeg, "Can the Natural Resource Curse Be Turned into a Blessing? The Role of Trade Policies and Institutions". (Working Paper for IMF, 2007).
[12] "The Indicators". FSI-fundforpeace.org. 2016. http://fsi.fundforpeace.org/indicators

The assessment of state fragility as an index has its challenges, some contest the term itself arguing that it implicitly contains normative assumptions of how states should perform and a misguided notion that all states will eventually converge around a Western model of statehood[13]. Limited framework is another area of fragile state research that is being pushed for a change. Fragile states are the center pieces of development work, indicating how conflict and poverty interact with the state. However as this thesis aims to do, the index must be expanded to framework beyond just development. Terms such as weak state, failed state are sometimes used interchangeably. It is important to establish a delineation between the two. There is a need to look beyond 'the state' to include 'the state of society'. Political, social, military or economic networks fill 'sovereignty gaps' and may operate at local, regional or global levels, challenging the capacity of the fragile state, and hence its legitimacy[14]. Despite concerns, the Fragile State Index operates as a comprehensive measure for modern state strength and in relation to this thesis, the elements comprising fragility speak directly to the core of questions posed in this study, how weak governments leave the state vulnerable to illegal resource exploitation and trade.

In order to better understand the weak state/strong state juxtaposition, clear guiding criteria must be set. Rotberg's assessments on the responsibilities of a state assume that a strong state is the antithesis of a failed state. Weak states fail to invest in public goods such as infrastructure, roads, and legal rules for contract enforcement[15]. Failed states are those political entities in international politics that supply deficient qualities and quantities of political goods and,

[13] Claire Mcloughlin, "Topic Guide on Fragile States". *Governance and Social Development Resource Centre*. 2008.
[14] Zoellick, Robert B. "Fragile States: Securing Development". *Survival: Global Politics and Strategy* 50, 6 (2008): 67-84.
[15] Daron Acemoglu, "Politics and Economics in Weak and Strong States". *Journal of Monetary Economics* 52 (2005): 1199–1226.

simultaneously, no longer exercise a monopoly of violence within their territories[16]. In some of the poorest countries, such as The Democratic Republic of Congo, the illicit rents captured by political elites may be larger than the tax revenues, these patterns suggest that governments in the relatively advanced economies are able to raise higher tax revenues and play a more important role in the economy[17].

Rotberg defines a strong state through five criteria framed by the concept of political goods, one, security and safety. Individuals cannot on their own secure national borders from transnational attack nor can they prevent non-state actors from acquiring weapons and followers within those national borders. Statehood in the traditional sense prioritizes a state's ability to protect citizens from harm and secure its borders. If it cannot protect its denizens from harm and secure its borders it fails a fundamental test of statehood, two, rule of law and transparency. States are responsible for enabling their citizens to resolve their differences with the government and with their fellow inhabitants without recourse to arms, armed conflict, or other forms of physical coercion. Modern, high-performing polities, establish predictable, recognizable, systematized methods of adjudicating disputes and regulating both the norms and the prevailing mores of their societies, three, participation and respect for human rights. Another key political good enables citizens to participate freely, openly, and fully in politics and the entire political process, including running for office, campaigning for candidates freely, and respecting fundamental freedoms such as freedom of speech, press, and assembly. This is the political good that enables citizens to possess a voice and to be represented in national political discourse by persons of their own choosing.

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[16] Robert Rotberg, "Failed and Weak States Defined", Africa and Asia: Key Issue Blog. February 11th 2013.
[17] Acemoglu, "Politics and Economics"

The two most representative criteria, sustainable economic development and human development draws a clear demarcation between strong states and weak and collapsed states. Four, sustainable economic development, states enable their citizens to prosper and achieve improved standards of living. Strong states do so by adhering to sensible macroeconomic policies, including openness to international trade, developing a regulatory environment that stimulates economic growth and keeps inflation low, and encouraging foreign and domestic investment. This framework provides a state-sponsored platform for sustainable economic development. Five, human development, the last category of political good by which state strength or failure is measured is human development. In the developing world certainly, and elsewhere also, citizens call upon their states to provide the highest possible quality educational and health services. Privately provided schooling exists everywhere, but the majority of citizens have long relied on the state to supply educational opportunity, the greater the quantity and the higher the quality the better. Private clinics and medical providers also exist side by side with those supplied by the state. The better and more reliable those of the state are, and the more citizens across classes rely on the state, the stronger the state.

Although I utilize Rotberg's definition to define the concept of state strength, I diverge on the subject of colonization. Rotberg does not see the consequences of colonization having an impact on state's efficacy by arguing that weak states are not intrinsically weak, or weak because of geography or colonialism, they are weak because they supply lesser or less-than-adequate quantities of political goods, or poorer-quality political goods, or both.[18] However, I argue that the impacts of colonization as well as the type of colony a nation was ruled as, has deep and lasting effects on the type of state a nation is able to construct post-independence. Therefore the

[18] Rotberg,"Failed and Weak States"

focus of states in this thesis is not an assessment of the state's' democracy to any particular standard but its strength/weakness. One of the unique features of African democracies lies in its conception. The start of democratization in many African nations struck the nerve of African community's sense of communal and ethnic participation. "More often than not ethnic and national groups are the locus of the individual's primary loyalty. They have largely displaced the state, which is often seen as contested terrain on which contending primary groups fight for the appropriation of what is supposed to be the common wealth".[19]

In response to the contested unique nature of African democracy, certain indexes that measure its democratic performance often run into issues. In relation to Freedom Index, Joseph/Africa Demos' Quality and Monga's Democratization for Africa Index . . . "The principal problem with them is that they mask the very features of difference that are the key to inter-democracy comparisons, and these important variations can combine to give aggregate scores identical to those based on very different component parts".[20] The Democratic audit provides a solution to this empirical question, by not questioning whether a nation is democratic, but the ways in which it is democratic. The audit is a systematic, qualitative assessment of the performance of a regime's many parts, against agreed democratic standards. It is a snapshot in time of the democratic functioning of a regime[21].

Through the democratic audit's understanding of African Democracy, I answer how SSA nations' democratic features work to help the state manage its natural resources. The audit is able

[19] Claude Ake, "The Unique Case of African Democracy." *International Affairs (Royal Institute of International Affairs)* 69, 2 (1993): 239-44.
[20] Bruce Baker, "The Quality of Democracy in the Developing World: Why and How It Should be Measured". (Paper presented at The 27th ECPR Joint Sessions of Workshops, Coventry University, 1999).

[21] Baker, "The Quality of Democracy in the Developing World"

to account for specific standards of African democracy by holding no definition of democracy that is either western or liberal in nature. " Time and experience have suggested that the democratic essential principles at the scale and complexity of the modern state are best preserved by a cluster of democratic state procedures including for example, equality in law, freedom of expression and association, universal suffrage, majority rule but with maximum debate and consensus on decisions, open contestation for office, sovereign government, free of constraints by internal and external actors, wide representation and subsidiarity in decision making, accountability, responsiveness and accessibility of decision makers, and impartiality in appointments, decisions and treatment ".[22] As mentioned previously, the audit seeks to determine how all of these factors operate within a state, and in doing so it provides a more complex view of democracy. Perhaps one complex enough to match the complex transitions the 49 Sub-Saharan nations Africans encounter en route to democracy, particularly DRC and Botswana.

2.3 Governance: Emphasizing Public Administration

Establishing a standard of government fragility often leads to the question of governance. Governance by definition is a process whereby societies or organizations make their important decisions. Simply put it is a system of decision making, which includes agreements, procedures, conventions, and policies that regulate the acquisition of power and the way accountability is rendered.[23]While good governance does not encompass the entirety of state strength, poor governance erodes the structures of strong states, making it an important factor when assessing

[22] Baker, "The Quality of Democracy in the Developing World"
[23] John Graham Bruce Amos Tim Plumptre, "Principles for Good Governance in the 21st Century". Institute on Governance: Policy Brief No.15. August 2003.

state fragility. It is important to establish the understanding that good governance is not necessarily about 'The Government', and as a result a strong state is not synonymous with a well governed state. This thesis confines good governance to the following criteria in the figure below.

As illustrated by the UN's 5 principles of good governance, good governance emphasizes the government's ability to organize institutions and equip them with the ability to make decisions that institutionalize efficacy, transparency, and equity among other elements. Good governance is concerned with how governments and other social organizations interact, relate to citizens, and how decisions are made in a complex world.

Box 1: Five Principles of Good Governance

The Five Good Governance Principles	The UNDP Principles and related UNDP text on which they are based
1. Legitimacy and Voice	**Participation** – all men and women should have a voice in decision-making, either directly or through legitimate intermediate institutions that represent their intention. Such broad participation is built on freedom of association and speech, as well as capacities to participate constructively. **Consensus orientation** – good governance mediates differing interests to reach a broad consensus on what is in the best interest of the group and, where possible, on policies and procedures.
2. Direction	**Strategic vision** – leaders and the public have a broad and long-term perspective on good governance and human development, along with a sense of what is needed for such development. There is also an understanding of the historical, cultural and social complexities in which that perspective is grounded.
3. Performance	**Responsiveness** – institutions and processes try to serve all stakeholders. **Effectiveness and efficiency** – processes and institutions produce results that meet needs while making the best use of resources.
4. Accountability	**Accountability** – decision-makers in government, the private sector and civil society organizations are accountable to the public, as well as to institutional stakeholders. This accountability differs depending on the organizations and whether the decision is internal or external. **Transparency** – transparency is built on the free flow of information. Processes, institutions and information are directly accessible to those concerned with them, and enough information is provided to understand and monitor them.
5. Fairness	**Equity** – all men and women have opportunities to improve or maintain their well-being. **Rule of Law** – legal frameworks should be fair and enforced impartially, particularly the laws on human rights.

(Source: John Graham Bruce Amos Tim Plumptre, "Principles for Good Governance in the 21st Century". Institute on Governance: Policy Brief No.15. August 2003).

Literature on governance faces difficulties in terms of defining the impact of governance on democracy. On a fundamental level, governance is often tied to corruption and failed leadership. This has included criteria such as 'stability' of governmental institutions, or the degree of 'impartiality' of the state from works of scholars like Rothstein. For scholars like Francis Fukuyama, governance, and good governance for that matter, instead relates to 'a government's ability to make and enforce rules, and to deliver services'.[24] Fukuyama's focus on bureaucratic capability fails to take into consideration whether or not the government in question is democratic. His lack of distinction draws closer attention to the separation between governance and government. Fukuyama asserts that democracy and good governance are mutually supportive.

In Fukuyama's reading of governance, the quality of governance is different from the ends that governance is meant to fulfill. Meaning, governance is about the performance of agents in carrying out the wishes of principals, and not about the goals that principals set. The government is an organization which can do its functions better or worse, governance is thus about execution, or what has traditionally fallen within the domain of public administration, as opposed to politics. An authoritarian regime can be well governed, just as a democracy can be mal-administered.[25] Other authors, such as Robert Rotberg, have suggested that the key criteria for measuring good governance should rather be related to the actual performance of governments, rather than their general capability, and should more specifically seek to establish 'whether

[24] Ludger Helms, "Revisiting Governance and Leadership, Good and Bad". (Paper presented at IPSA World Congress, July 2014).
[25] Francis Fukuyama, "What Is Governance?" (CGD Working Paper 314. Washington, DC: Center for Global Development, 2013).

regimes are delivering necessary and desirable governmentally provided performance results to their citizens'.[26] Relations between governance and economic development are argued to be positive. Sachs & Warner's study in 1977 demonstrated that countries with good institutions governance tend to have high rates of economic growth than countries with poor institutions.[27] Although good governance is not limited to the state, as governance is no longer the exclusive domain of the state, it is important to consider governance and how it intersects with democracy to help countries resolve the obstacles they encounter. Poor governance creates an environment where the state, the private sector and civil society lack respective efficacy, productivity and mobilization. So while good governance can exist outside of the state perimeters, a strong state must exhibit good governance in order to be effective. Botswana represents itself as a viable case study in showcasing the good governance process and the efficacy, understood in this context as national development, which it produces.

2.4. Framework

Institutional Theory

At its core, this thesis asserts that the relationship between resource dependency and state fragility in SSA can be best explained through Institutional theory. The theory is divided into three forms, cognitive, normative, regulative and operate at multiple levels of jurisdiction. As a result of these layers, institutional change can result from change in the formal rules, informal, norms or the enforcement of either.[28] Being complex entities institutions are ". . . made up of formal constraints (such as rules, laws, routines and

[26] Helms, "Revisiting Governance and Leadership"
[27] Graham et al, "Principles for Good Governance"
[28] Douglas North, *Understanding the Process of Economic Change*. (Princeton, NJ: Princeton University Press, 2005).

constitutions), and informal constraints (such as norms of behavior, conventions, self-imposed codes of conduct), and their enforcement characteristics".[29] These three levels provided by Institutional theory provide this thesis with a operate framework in which to assess the actions and behaviors of institutions in SSA that influence resource dependency. Mismanagement of natural resources is cited as a result of weak and corrupt governments by institutional theorists. Additional institutional theory is greatly suited to the analysis of this thesis because it takes into account the particular historical transition of the region. Institutional theorists argue, as I posit in this thesis, the development of institutions in a given country is often an outgrowth of a country's colonial experience.[30]

Table 1: Pillar of Institutions

	Regulative	Normative	Cultural-cognitive
Basis of compliance	Expedience	Social obligation	Take-for-grantedness Shared understanding
Basis of order	Regulative rules	Binding Expectations	Constitutive Schema
Mechanisms	Coercive	Normative	Mimetic
Logic	instrumentally	Appropriateness	Orthodoxy
Indicators	Rules Laws Sanctions	Certifications Accreditation	Common beliefs Shared logic of action
Basis of legitimacy	Legally sanctioned	Morally governed	Comprehensible Recognisable Culturally supported
Supported by	Economists	Early Sociologist	Late Sociologist
Primary Propagandists	North	Selznick	DiMaggio and Powell, Scott
Degree of formality	Formal institutions	Informal institutions	Informal institutions

Source: google images

[29]Douglas North, "Economic Performance through Time", *American Economic Review*, 84 (1994): 359-68.

[30]Neumayer, Eric, and Simon Dietz. "What Is the Appropriate Role for Economics in Sustainable Governance?" (Paper presented at the Governance of Sustainability, An International Research Conference, University of East Anglia, Norwich, UK. 2005).

This assumption is helpful when assessing why some countries like Congo, have struggled to secure a strong government. Explanation may lie in the post-colonial process that either failed in securing formal constraints to guide institutions, while perpetuating informal norms of corruption. The combination of the formal and informal cultural, political, and economic consideration in Institutional Theory allow this thesis to perform analysis about natural resource outside the scope of economics, while still working with economic data to provide additional.

State Strength: Building the Capacity for Institutions

What does a state need to be strong? By posing this general question, the focus of the state in this thesis moves further and prioritizes the elements of a state and not simply what the state produces. In doing so, I establish a framework in assessing state strength in juxtaposition to state fragility. The framework is advanced by the question of "getting to Denmark", where Denmark is representative of a well-developed country with well-functioning state institutions.[31] The roots of this framework are found in the reconciliation of "big governments" and state capacity that divide the first and third world.

Fukuyama notes in *The Imperative of State-Building* that limitations of government have dominated state discourse primarily because they occupy a place of primacy in western politics. Fukuyama defines state building as the creation of new government institutions and the strengthening of existing ones. The dominant trend in world politics has been the critique of "big government" and the attempt to move activities from the state sector to private markets or to civil society[32]. State building, as a solution for the political and economic duress in many parts of the developing world, has been neglected. In the area of the world that is of most concern in this

[31] Francis Fukuyama, "The Imperative of State-Building." *Journal of Democracy* 15, no. 2 (2004): 17-31.
[32] Fukuyama, "State-Building"

thesis, Sub-Saharan Africa, lack of state strength is the source of multiple if not all obstacles in the region. Remedies to this issue lie in the lack of fundamental conceptualization of "stateness" and its multiple dimensions in relation to economic development. Fukuyama corrects this by providing a distinction between the scope of a state and its strength.

The crux of framework on state strength lies in understanding and assessing first and foremost the scope of the state and its strength. Scope refers to the different functions and goals taken on by governments, while strength focuses specifically on state power and the ability of states to plan and execute policies, and to enforce laws cleanly and transparently. From this distinction, a matrix is created to differentiate the degrees of stateness in a variety of countries. In this matrix, scope is placed on a spectrum ranging from necessary and important to desirable to optional and in some cases counterproductive or even destructive. There is limited hierarchy when it comes to state primary functions. Fukuyama identifies these primary as providing public order and defense from external invasion before developing other functions such as universal health insurance or free higher education.[33]

Alongside the state function continuum lies the assessment of state's strength. Strength encompasses the ability to enact statutes and to frame and execute policies. Specifically speaking, this entails the control graft, corruption, and bribery, and maintenance of high levels of transparency and accountability in government institutions and the enforcement of laws. It is important to understand the importance of balance in discussions about state strength. Some states may have greater capacity in one area then another, which may not necessarily lead to the entire state being deemed a "strong state". Examples include the governments of Mexico and

[33] Fukuyama, "State-Building"

Argentina who have great capacity in reforming state institutions such as central banks, but lack the capacity to control fiscal policy or provide high-quality public schooling or health care.[34]

International Law: Principle of Effectiveness

The discourse surrounding natural resource curse is primarily state centric, in the sense that the cause and effect of the proposed underdevelopment caused by natural resource dependency is limited within the national boundaries of the affected country. Beyond those boundaries lies the deep impact of international norms and how they set the tone for our global standards and what is justifiable. Leif Wenar's *Blood Oil: Tyranny, Resources, and the Rules that Run the World* addresses this general framework by locating the source of natural resources not solely domestic politics, but rather international as well. Today's international rule says that coercive control over a population ("might") will result in legal control over that population's resources ("right") . . . might makes right is as true for an autocrat in coercive control of an oil rich country as it is for a band of militant who seize a mine by force.[35] Effectiveness' is the international rule for resources and it creates incentives for coercion and crime in resource rich countries.

Wenar's description of the international context of natural resource exploitation paints an unbalanced picture of sanctioned exploitation. The rule of effectiveness provided additional layer to explain the 2nd level of exploitation fragile states encounter internationally. Effectiveness -- might makes right -- only appears as an international rule because convergence on that rule is nearly universal.[36] While no single written code exists to justify might versus right, the domestic strength of this has transferred it into an international normative concept. One, that exposes the

[34] Fukuyama, "State-Building"
[35] Leif Wenar, *Blood Oil: Tyranny and the Rules that Run the World*. (New York: Oxford University Press, 2015).
[36] Wenar, *Blood Oil*

world to the importance of popular sovereignty. Wenar's analysis on the principle of effectiveness is significant to this thesis because it provides a unique platform to discuss international trade, resource curse and a lack of respected popular sovereignty for resource rich developing nations. International trade in natural resources is the only sphere in which effectiveness continues to rule, this is the realm of international resource trade. Domestic policies, that disregard popular sovereignty, create loopholes in the transaction of illegal goods. Wenar's argument is helpful in proving answers to the core question of this thesis which asks how continued trade of illegal natural resources can occur despite existing regulations.

Bringing international participation into discussion provides an ontological basis through which this thesis can bring forth an elevated level of discussion on governing norms that dictate the transparency of natural resource supply chains as well as the legitimacy of its sale. Solving the case of mineral exploitation in Congo, does very little to tackle oil exploitation in Nigeria and mineral exploitation in Colombia. To deal with the root of the issue would be to eliminate the global supply chain of resource exploitation that perpetuates much of the underdevelopment that occurs in resource rich developing countries. Addressing the exploitation of natural resources in SSA and in particular coltan trade in the DRC is the first step.

-CHAPTER THREE-

III. Methodology

This thesis utilizes a mixed methods research approach, combining quantitative and qualitative methods to answer the question of illegitimate natural resource trade in SSA. A mixed methods approach allows this thesis to answer the research questions at different levels without being limited to one research design. In order to investigate the relationship between state fragility and resource dependence, the research designs used include, Cross Country Time Series Regression and a case study. Exports and services (% GDP) data derived from the World Bank is used to measure resource dependence. The central assumptions to be tested is whether state fragility perpetuates the illegal exploitation of natural resources and present loopholes that enable illegal trade in light of international regulation. A case study is conducted in Chapter 5, in which the theory that conjuration of state strength and resource abundance propel and or fast track sub-Saharan African nations to development is presented.

Four possible situations arise from this interaction are theorized. First, strong government leads resource rich countries to faster economic development. Second, resource poor countries with strong governments undergo slower development due to lack of resources. Third, resource poor countries with a fragile state leads to unsatisfactory governance that erodes development. Fourth, the worst case scenario, resource rich countries with a fragile state leads to a lack of governance which results not only in stunted development, but pockets of uncontrolled violence and conflict generated by internal and external struggle between state and non-state actors to control resources for personal wealth.

3.1. Data

The data focuses on the developing countries of sub-Saharan Africa. 49 Sub-Saharan African countries were used in the study to examine the relationship that exists between Fragile States and Exports over a 9 year period from 2006-2014, all data was obtained from the World Bank database of indicators. The statistical results below were self-conducted, with the use of STATA 10. The research design produces the following simple linear equation, Exports & Services (% GDP) = 83.3444 -.565527FSI indicating a negative relationship between the two variables. The null hypothesis posed in this thesis states: Fragile State Index and Exports (% GDP) are statistically independent and the alternative hypothesis states Fragile State Index and Exports (% GDP) are statistically dependent. The self-conducted regression test below provides an initial understanding of the relationship between the two variables employed in this study.

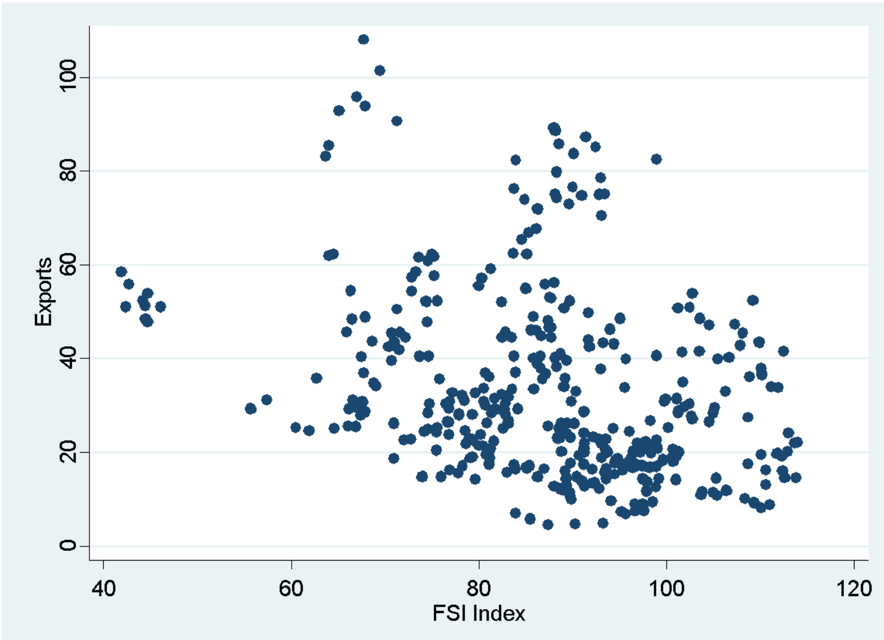
3.2 Statistical Results

Table 2. Summary of data, Banda (2017)

Variable	Obs	Mean	Std. Dev.	Min	Max
exports	389	34.386	20.3	4.4	107.9
fsi	426	87.68685	14.2	41.9	114.9

A summary of the data illustrates the basic trend being hypothesized, with an average FSI of 87.6% regional resource dependence is calculated at a combined 34% exports and services (% GDP).

Graph1. twoway scatterplot, Banda(2017)



The general trend explained by the graph shows that the higher the FSI of a country, the greater the percentage of exports and serviced (% GDP). It is also worth noting that outliers do exist, as is evidenced by the point with FSI in the range of 60-70 with an 80% export and services value. Given the general trend of the region politically, a majority of countries lie in the range of 80-90 FSI score. Therefore, while the relationship is significant, thus giving evidence to a regional trend, a closer look at each country may provide additional variables that explain higher FSI in some areas and lower exports in others. Below is a statistical description describing the various elements of the relationship between FSI and Exports (% GDP).

Table 2. Statistical description, (Banda, 2017)

```
------------------------------------------------------------------------------
Random-effects GLS regression              Number of obs      =       378
Group variable: countrycode                Number of groups   =        48
------------------------------------------------------------------------------
R-sq:  within  = 0.1620                    Obs per group: min =         1
       between = 0.0570                                   avg =       7.9
       overall = 0.1017                                   max =        10
------------------------------------------------------------------------------
Random effects u_i ~ Gaussian              Wald chi2(1)       =     65.03
corr(u_i, X)       = 0 (assumed)           Prob > chi2        =    0.0000
------------------------------------------------------------------------------
     exports |      Coef.   Std. Err.      z    P>|z|     [95% Conf. Interval]
         fsi |  -.565527   .0701267    -8.06   0.000    -.7029728   -.4280812
       _cons |   83.3444   6.536334    12.75   0.000     70.53342    96.15538
------------------------------------------------------------------------------
```

Interpretation

With a Pvalue of 0.000 the null hypothesis can rejected at 95% confidence interval. Though the relationship between the two variables is statistically significant, the low R square suggests the possibility of other predictor variables to provide a more complete picture of the impacts on exports within the region.

The regression analysis utilizes the dummy variable FSI- fragile state index and as a result, uses the fixed-effects (FE) command for its regression analysis. This command is used because it isolated the analysis to focus specifically on the impact of variables that vary over time. FE explores the relationship between predictor and outcome variables within an entity (country, person, company, etc.).[37] Each entity has its own individual characteristics that may or may not influence the predictor variables. When using FE we assume that something within the individual may impact or bias the predictor or outcome variables and we need to control for this.[38] This is the rationale behind the assumption of the correlation between entity's error term and predictor variables. FE removes the effect of those time-invariant characteristics so we can assess the net effect of the predictors on the outcome variable.

[37] Oscar Torres-Reyna, "Panel Data Analysis Fixed and Random Effects using Stata". Princeton University. December 2007.

[38] Torres-Reyna, "Panel Data Analysis"

-CHAPTER FOUR-

IV. The Democratic Republic of Congo

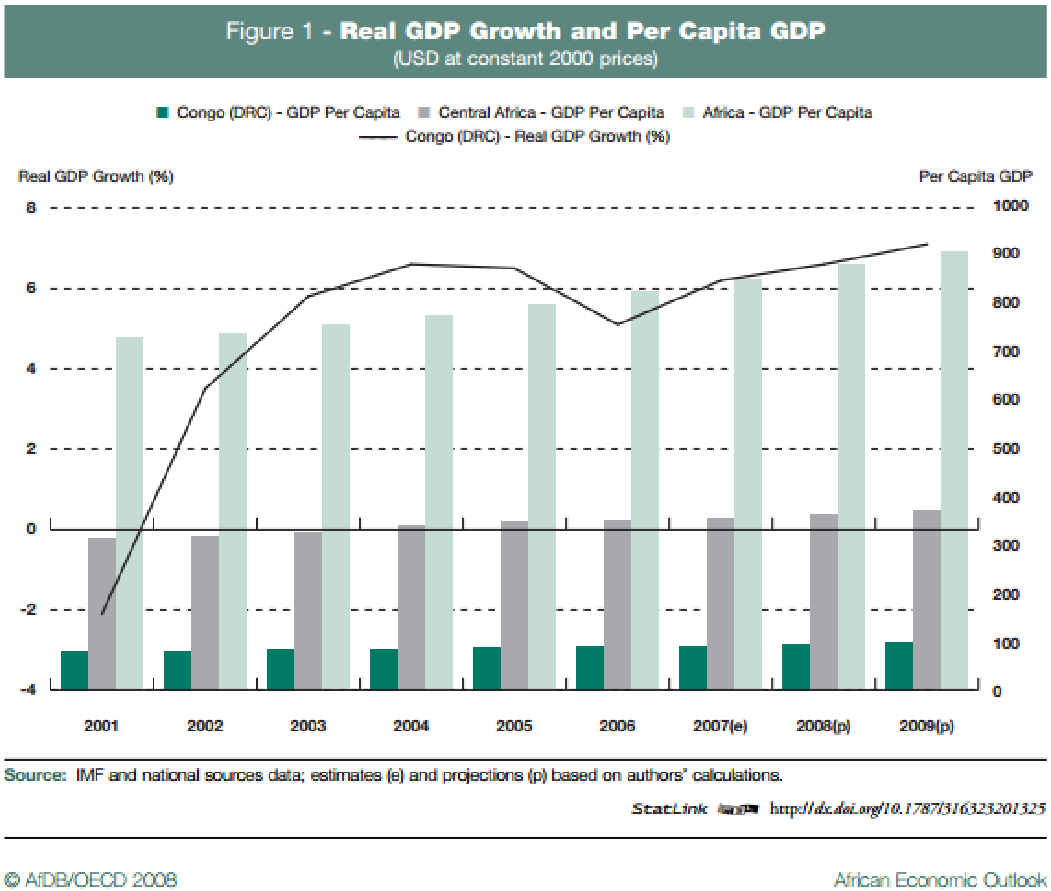
4.1 Overview of the DRC

The DRC's tumultuous transition to independence and later to democracy has influenced much of the contemporary issues plaguing the state. This thesis primarily focuses on being the lack of state administration and the illegality of the coltan trade. Chapter 4 thus raises the fundamental question, Why is the DRC a weak state? This chapter will highlight all elements that are pertinent to the weakness of the state and the illegitimate trade of coltan in the DRC, including its historical context of DRC's colonial history as well as its transition into a fragile democracy. It will begin by first providing a brief overview of the country and a summary of its post-independence economic performance from the 60s to early 2000s. A brief look into the country's most lucrative sectors, agriculture and mining, details their respective contribution to the state's economy. The chapter concludes with an examination of the mining industry and the illegitimate trade of coltan.

The Democratic Republic of Congo, is the largest country in Francophone Africa and is one of the richest countries on the continent in terms of natural resources. The DRC has vast natural resources with 80 million hectares of arable land and over 1,100 minerals and precious metals identified.[39]

[39] BBC, "DR Congo Country Profile". *BBC News.* April 2017

The DRC holds the most extensive network of navigable waterways in Africa, with a vast hydroelectric potential that remains largely untapped.[40] Despite the country's potential, it remains one of the poorest countries in Africa.



(Source: OECD. "Democratic Republic of Congo". African Economic Outlook. 2008).

The state has record low GDP growth, well below continental and regional levels. Minimal reduction in poverty has resulted in a decrease in poverty rate from 71% in 2005 to 64% in 2012. In of 2015 the DRC ranked 176 out of 187 countries on the latest United Nations Human

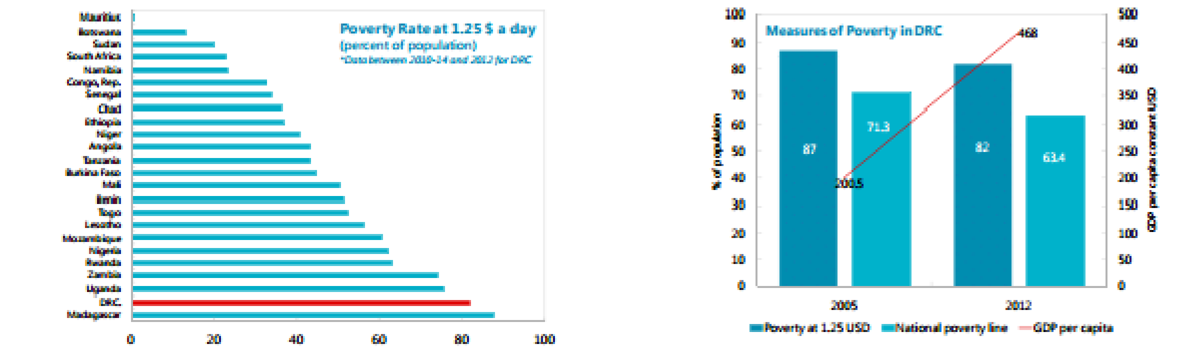
[40] Bernardin Akitoby and Matthias Cinyabuguma, "Sources of Growth in the Democratic Republic of the Congo: A Cointegration Approach". (IMF Working Paper. 2004).

Development Index.[41] The decades long civil war has played a major role in helping maintain poverty in the country.

Figure 1. Democratic Republic of the Congo: Indicators of Poverty

Poverty incidence, measured by the standard $1.25 a day, is among the highest...

...even though progress was made on both measures of poverty between 2005 and 2012.



Sources: World Development Indicators; Congolese authorities; and IMF staff estimates.

(Source: IMF. "Democratic Republic of Congo". IMF Country Report No. 15/281. August 2015)

The United Nations reports that there are 2.3 million displaced persons and refugees in the country and 323,000 DRC nationals living in refugee camps outside the country.[42] Although the DRC has the potential to become one of the richest economies on the African continent and a driver of African growth, political instability is the country's biggest threat to economic development.

Economic Performance: Post-independence

The DRC's economic performance has been constrained by a myriad of intersecting issues. Most noteworthy of these constraints include, ineffective governance, administrative bottlenecks, ill-conceived economic policies, transportation difficulties, lack of basic infrastructure, and insufficient confidence among potential local and foreign investors, which

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[41] World Bank, "Democratic Republic of Congo". The World Bank. April 2017

[42] World Bank, "Democratic Republic of Congo"

have produced inconsistent and relatively short periods of growth.[43] Post-independence, the DRC was plagued by both political and economic chaos. In the backdrop of former Prime Minister Patrice Lumumba's assassination and the succession of Dictator Mobuto Sese Seko, many foreign entrepreneurs fled the state.

Figure 1. Democratic Republic of the Congo: Real GDP per Capita (Index, 1960=100)

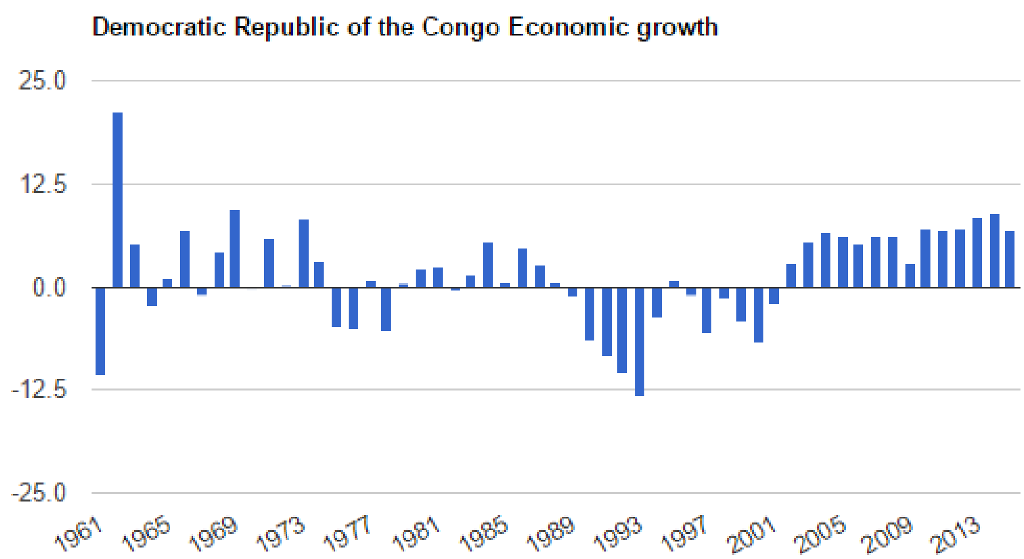
Sources: Congolese authorities; and IMF staff estimates.

(Source: Bernardin Akitoby and Matthias Cinyabuguma, "Sources of Growth in the Democratic Republic of the Congo: A Cointegration Approach". (IMF Working Paper. 2004).

This resulted in a disrupted transport network and a decline in output. From 1960-1965 real GDP declined by 4% , the GDP grew once again at a rate of 5.1% after the government nationalized all small, medium sized and large foreign enterprises in the 70s. The government spent much of the late 60s and early 70s becoming involved in the productive sector of the economy, quadrupling public investment. Despite increased involvement, the government was not yet equipped to fully manage the economy. In 1973 the centralized economy was unable to adjust to the trade shocks caused by a reversal in copper prices and oil crisis.

[43] Akitoby and Cinyabuguma, "Sources of Growth"

The state was greatly tested in 90s, in its recovery from a failed liberalization plan in which the government's control over economic policies was lost. The economic distress was compounded by the start of the civil war, which led to the destruction of the country's capital and loss of investments. In the 10 year period of 1990-2000, the country fell into unprecedented circle of hyperinflation, currency depreciation, increasing dollarization and financial disintermediation, declining savings, deteriorating economic infrastructure, and broad-based output decline.

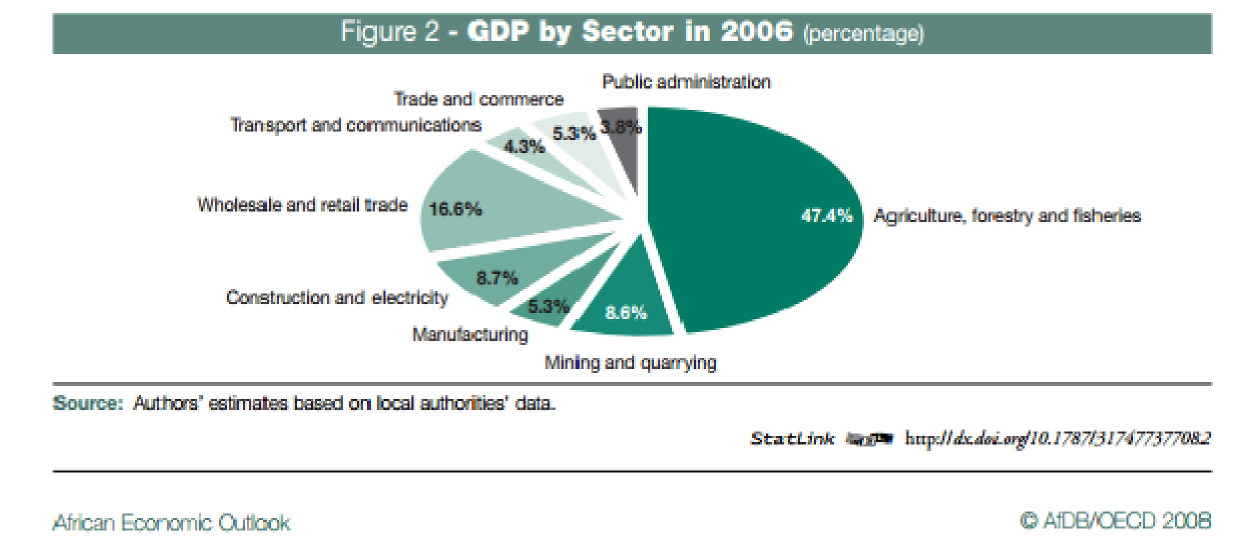


(Source: The Global Economy.com)

As a result, real GDP contracted cumulatively by about 43% during the decade, and per capita real GDP plummeted from US$224 in 1990 to US$85 (23 cents a day) in 2000. Consumer prices rose at an annual average rate of 684 %, government revenue fell by 80 %, and external debt rose to about 300 % of GDP (or almost US$13 billion). In the early 2000s, the DRC began to experience increased economic growth. In 2002, the real GDP was estimated at 3%, after 13 years of decline. Efforts to bring about this change focused on the government addressing the alarming economic and social situation by stabilizing the macroeconomic situation, liberalizing the Congolese economy, and opening it up to the rest of the world.[44]

Economic Sectors: Agriculture and Mining

Despite holding some of the world's greatest abundance of natural resources, the state economy has been primarily based on agriculture. Agriculture provides direct employment to more than 75% of the labor force and accounts on average for about 45% of real GDP. Though agriculture has the potential to be a source of economic growth, export diversification, and gainful employment, its output has not recorded substantial growth and its contribution to exports declined continuously from about 40% of exports in 1960 to less than 10% in 2000.[45]



(Source: OECD. "Democratic Republic of Congo". African Economic Outlook. 2008).

In 2007, the agricultural sector recorded a growth rate of 3. %, a decline from the previous year. This fall was the result of the decreased production of certain products, particularly palm oil (down 45.9 %) cacao (down 31.3%) and rubber (down 14.6 %). The agriculture sector

[44] Akitoby and Cinyabuguma, "Sources of Growth"
[45] Akitoby and Cinyabuguma, "Sources of Growth"

remains dominated by small farms that have had difficulty developing as a result of run down transport infrastructures and the lack of bank credit.[46]

Mining and quarrying industries, which measured at 8.2 % of GDP in 2006[47] has grown at a rapid pace. The growth is attributed to an economic upturn in Katanga province, an upswing in diamond production in the two Kasaï provinces, and growing world demand for minerals. The increased global demand for non-ferrous metals led to a considerable price rise, which has benefited Congolese mining production. Copper production increased by 2.5%, cobalt production by 3.5% and zinc production by 8.1%. Total diamond production rose by 7.5% at the end of June 2007 because of an increase in small-scale production (19.1%).[48] Most mining is carried out by the largest state-owned company, the Générale des Carrières et des Mines du Congo (GECAMINES), which accounts for over 90% of total copper production, and the entire cobalt and zinc output. In the diamond sector, the Société Minière de Bakwanga (MIBA), partly owned by the government is responsible for the industrial mining of diamonds, individual prospectors account for some 60% of total diamond production.[49]

Turning now to contextualize the DRC, the following sections details the conditions of colonial DRC. The chapter begins by detailing the colonization disruption of the DRC's traditional forms of governance. Following that is a look at DRC's institutions and the illegal trade of coltan.

[46] OECD, "Democratic Republic of Congo". (Report for African Economic Outlook, 2008).
[47] 12% as of 2013
[48] OECD, "Democratic Republic of Congo"
[49] Akitoby and Cinyabuguma, "Sources of Growth"

4.2 Colonial DRC

(Source: Google Images)

The DRCs colonial history lays the foundation for the nation's contemporary provincial power struggle. Although violence is often mentioned heavily when discussing the colonization of the DRC, often dominating the discourse of King Leopold and the Belgian state's rule over Congo, this section will focus on the political and institutional remnants of colonization. The disruption of King Leopold's rule began by destroying the pre-colonial socio-political structure of the DRC. Pre-colonization, the DRC was ruled by traditional patrimonialism, with the chief holding the top place in social hierarchy. The chief represented a link between the past and present, receiving authority through kinship ties with ancestors. With the chief placed at the head of society, community members were designated to be heavily dependent on the chief for material goods. The communal nature of Congolese society, where there was no distinction between public and private sphere and property was communally held and distributed, reinforced the chief's power.[50] Inter-community relations were defined and regulated by marriage and councils. Dismantling the position of the chief in pre-colonial Congolese society disputed Congolese societal order shifting power into the hands of King Leopold and eroding the fundamental basis of Congolese political organization.[51]

King Leopold II created the function of a European "district commander", who could revoke pre-colonial leaders as they saw fit. Larger chiefdoms were replaced by smaller ones headed by appointed chiefs. These appointees were responsible for the oppression that included expropriation, monopolization of natural resources and forced labor. The Belgian state continued the erosion of Congolese traditional governance by merging previously split chiefdoms into *secteurs* with an incapacitated leadership with no possibility for resolving conflicts.[52] The removal of the chiefs' ancestral authority de-legitimized his position in Congolese society. This resulted in severe inconsistencies between the institutional structures of the "state" and the society inhabiting that state. Without the chief's authority, there were no formal mechanisms to resolve emerging intra or inter-community conflict, the indigenous council's that previously ordered the society were removed. [53]

[50] Malene Mortensen, "The Breakdown of Societal Order in the Democratic Republic of Congo". *E-International Relations,* December 8*,* 2013.
[51] Mortensen, "The Breakdown of Societal Order"
[52] Mortensen, "The Breakdown of Societal Order"
[53] Mortensen, "The Breakdown of Societal Order"

The chief's authority over communal land was also taken over by the Belgian state. The Belgian state began by first separating the public and the private sphere, reserving most property in their possession. Remaining land was redistributed privately in contracts. Land was redistributed by the colonial administration to individuals or foreign private actors, resulting in commoditization of previously communal lands. In South Kivu, for example, the traditional land contract ' *kalinzi* ' was transformed to a contract between any two individual parties.[54] Land was increasingly leased instead of sold, with rent producing a quasi-feudal system. The Belgian state's policies were often legitimized through the use of force, the Force Publique, the colonial army consisting of Congolese men, was used to enforce free labor and ensure that workers met the rubber quotas through imprisonment, summary executions, and severing of limbs. The Belgian state's redistribution of land resulted in provincial inequality of power. The regional leaders who were supported by the colonial powers became a part of the "haves" that ruled over the "have nots".[55] Colonial disruption of the DRC traditional mechanisms of governance led to deep seated regional rivalry, regional inequality and a deep mistrust of central government, issues which now underline the contemporary state's fragility.

Contextualizing State Fragility in the DRC

The centering of the Congo's declared fragile democracy is both plausible explanation and solution to the continuation of conflict mineral coltan. Since the start of the Fragile State Index, the Congo has remained in the top 10 spot, where it ranked in the number two spot in 2005. A fragile state is determined through 3 indicators,

[54] Mortensen, "The Breakdown of Societal Order"
[55] Mortensen, "The Breakdown of Societal Order"

1. Social
2. Economic
3. Political and Military[56].

The recent surrender of rebel group M23 in 2013 gave the Congo a lowered FSI index and allowed it to lower's score to the 4th spot in 2014. The upward trend of improvement that the state has demonstrated in economic indicators and political & military, particularly with the measures state legitimacy, uneven economic distribution, public service, and external intervention demonstrates the importance of these factors in shaping an efficient democracy. As recently as 2016, the Congo as once again lowered its index to the 8th spot. However improvements in one or more indicators is not enough to pull the fragile state out of the top spot[57].

Progress for the DRC has been slow, consistently earning high scores in external intervention, indicates that a great contribution to Congo's fragility as a state lies in the aforementioned external forces that have plagued the nation since its earliest transition from a colony. International support marked much of the post-colonial cold war era in Africa. African states led their ideological independence movements by appealing to an international audience and raising diplomatic concerns. By the end of the colonial administrative rule, the landscape of the Congo state was in the form of Weberian model of stateness. A state in which the colonial Belgian administration exercised effective dominance over their territorial domain and had a

[56] "The Indicators". FSI-fundforpeace.org. 2016. http://fsi.fundforpeace.org/indicators
[57] Kendall Lawrence, "The World's Ten Most Fragile States in 2014". (Annual Report for Fragile States Index, 2014).

monopoly on the legitimate use of force. In this period, the direction of force was from the colonial state to the people. The direction of violence shifted at the start of anti-colonial national resistance in the 1950s, noted most significantly by the January 1959 Kinshasa riots in lower Kwilu, and Maniema. Support for the movement from both domestic and international parties was provided by western and non-western states. African countries supplied the Congo with external office facilities, passports, and plane tickets for key insurgent visitors, while Nordic states' support came in the form of financial backing and the soviet bloc provided military training and arms supply. The colonial administration granted interim independence to the Congo in January of 1960.

The Bula Matari administration still retained effective control during an extended institutional transition after formal power transfer, which was succeeded by young militias in the Katanga province. This post-colonial conflict state was a direct result of separatist movements challenging the legitimacy of the Katanga secession and a botched decolonization at the hands of Belgium, who never fully and effectively transferred power to trained hands. The Congolese only numbered 3 out of 4,600 personnels in elite civil service positions in the country. The anti-colonial rebellions combined the use of agitation and political recourse to an internal audience, as well as a breach of the diplomatic realm, to make an impact. This was this the origin of armed challenge to the state in Congo.

Destabilization of the State

Despite the grant of independence the multiple trajectories of violence did not end and suspicions arose about the true nature of independence. A call for a second independence came after the assassination of former Prime Minister of The Free State of Congo, Patrice Lumumba. Laurent Desire Kabila emerged as a challenger to the central government established in Katanga due to its ties to Belgium and Katanga's colonial establishment. Further suspicions arose surrounding the true nature of independence for Congo as well as discourse of betrayal of independence by imperialist intervention.[58] The DRC is characterized by a deeply embedded culture of clientelism, political mobilization often revolves more around "big men" rather than ideological issues. Many institutions including non-state entities such as political parties, associations, interests groups and civil society groups lack internal democracy and are characterized by the personal rule of individuals. The national army comprises parallel hierarchies and loyalties to individuals rather than democratic principles. The presidential guard takes orders directly from the president and is not subject to any democratic oversight. This is also seen in the state military and armed forces wavering commitment to the state society. Various armed groups repeatedly question the fundamental principles of the democratic order, even though most are making use of a discourse of democracy themselves.[59] The shifting allegiance of armed militias have played an integral role in initiating transfers of power in the DRC, it is also seen as one of the main factors in protecting illegal coltan trade.

Decentralization: A Solution to Provincial Inequality

Provincial power struggles have always been a feature the DRC's independence. During the 2005 constitution-writing process, organized by the transitional government of national unity, the allocation of power and resources between the center and the surrounding provinces was a contentious issue.[60] The idea of a strongly decentralized state emerged as a compromise between

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[58] Crawford Young, *The African Stakes of the Congo War*. Chp "Contextualizing Congo Conflicts Order and Disorder in Postcolonial Africa". (England: Palgrave Macmillan, 2002).
[59] Bertelsmann Stiftung's Transformation Index, "Congo, DR Country Report". Gütersloh: Bertelsmann Stiftung, 2016.
[60] Denis M Tull, "Troubled State-building in the DR Congo: The Challenge from the Margins". The *Journal of Modern African Studies*, 48, 4 (2010): 643-661.

those who argued for and against federalism. Despite this resolution, the 2006 elections put the power in the hands of those who both opposed federalism and decentralization. President Joseph Kabila, after his presidential victory, sought to prevent the decentralization reform that would deprive the central state of significant revenues.

Post-independence the rebuilding of the DRC included discourse about the alignment of power within the state, addressing historic regional tensions. Despite a long history of pseudo-centralized rule, the 2006 constitution set the vision for a strongly decentralized political system. The reform includes a strong fiscal component which requires the decentralization of government expenditure and revenue-raising authority to sub-national government structures.[61] Previously, provinces were required to transfer all of their revenues to the central state before the central state, located in Kinshasa, would redistribute 15% of the national income back to the provinces.[62] In reality, the transfers amounted to less than 15% given the lack of administrative capacity and corruption in Kinshasa. Article 175 of the 2006 constitution attempted to ratify this situation by entitling the provinces 40% retention of their fiscal revenues national income.[63]

The central government's motivation for halting decentralization stems from a need to secure revenue for itself. The country's foreign donors supported the position of the central government. Pending local capacity-building, Kinshasa vowed to 'limit large transfers or retain fiscal resources for an interim period, until fiduciary systems in the provinces are at a minimum acceptable level'. As a result, the budget for the fiscal year 2008 showed no trace of fiscal decentralization. Aversion to fiscal decentralization was in part influenced by donor's opinions, who felt that fiscal decentralization contained significant macroeconomic risks, such as reckless spending by

[61] Tull, "Troubled State-building in the DR Congo"
[62] Tull, "Troubled State-building in the DR Congo
[63] Tull, "Troubled State-building in the DR Congo

provincial governments.[64] Foreign donors argued that large transfers to the provinces should be limited until sufficient capacity was built up at the local level.[65] The fiscal budget of 2008 showed that the central government was determined to act on donors' politically convenient recommendations and their argument that the decentralization process posed a severe threat to macroeconomic stability. The government went on to reduce fiscal transfers to the provinces from a previous level of 15% to 6%'. These actions gravely impacted the provinces and heightened already existing provincial power struggles.

The DRC's new provincial governments were left to govern without the necessary legal frameworks and with few or no financial resources. The central government's budget forecasts sometimes systematically underestimate 'sovereign expenditures', and engage in 'excessive use of exceptional procedures' when it comes to budget execution. The presidents of ten of Congo's provincial assemblies, led by Bas Congo's François Kimasi, joined together to sign the 'Matadi Declaration' on 20 May 2007, requesting the immediate implementation of Article 175 .The central government responded to pressure by finally entering in negotiations with provincial legislators. The application of the 40% formula would be halted until January 2008, to allow more time for appropriate financial and regulatory frameworks to be devised. However since then no decisions have been made.

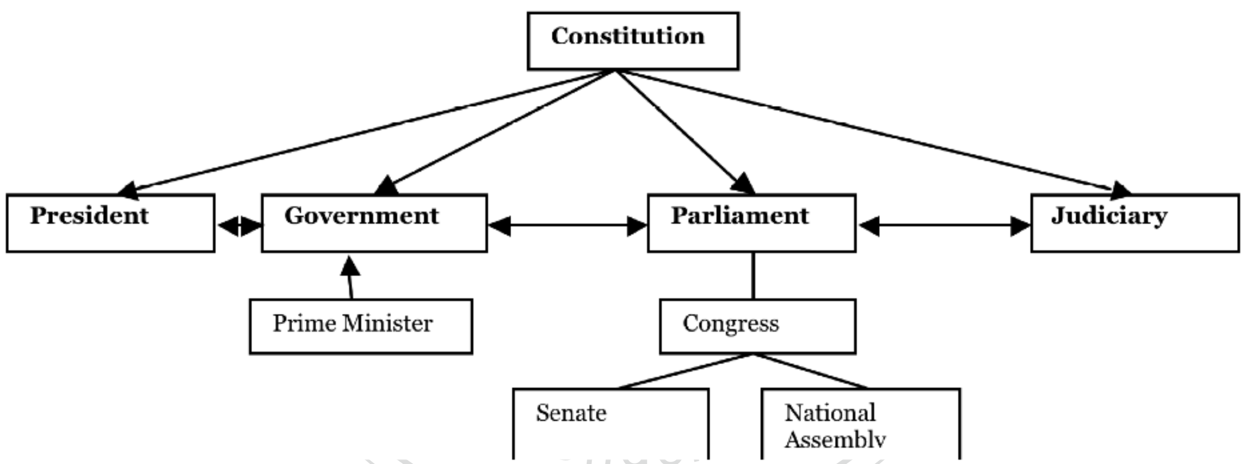
Decentralization exposed two key weaknesses in the DRC's government, one, the constitution is not guiding force within the country, nor is it respected, two, the central government lacks the capacity to properly administer its provinces. Beyond Bas Congo, the push for decentralization included mining provinces Katanga and two Kasais and even the central province, who despite dealing with incomplete road maintenance, water, and electricity distribution caused

[64] Tull, "Troubled State-building in the DR Congo"
[65] Tull, "Troubled State-building in the DR Congo"

by lack of public investment, these provinces continued to push for the implementation of Article 175. The push for Article 175 signifies a demand for legitimizing the new constitution along the country's populous margins.

Following the mismanagement of decentralization, questions about the efficacy of the DRC's core institutions must be raised. The next section answers these questions by identifying the core structures of the state and identifying the causes behind the lack of administrative capacity in the DRC.

4.3 Core Institutions in Post-Colonial Congo (DRC)



(*source :* *Dunia P. Zongwe, François Butedi and Phebe Mavungu Clément)*

The scope of the DRC is most sufficiently outlined in the 2006 Constitution. Articles one, five and 58 provide a primary account of how the state ought to operate and a measure for the state's failure in terms of intra-governmental strength, rule of law and natural resource wealth distribution. Per the 2006 Constitution, the DRC is defined as an independent state united and indivisible, social, democratic and secular, where the rule of law prevails, and whose territorial borders are those that existed upon the country's independence on June 30th 1960 (article 1).[66] National sovereignty belongs to the people (article 5),[67] all power emanates from the people, who exercise it directly by referendum or elections and indirectly through elected representatives.[68] Additionally the constitution states all Congolese have the right to enjoy the national wealth and the State has the duty to redistribute it equitably and to guarantee the right to development (article 58).[69] Despite the relative structure of the current 2006 Constitution, the establishment of the state's scope has been tumultuous.

The DRC's path in creating a constitution has spanned 46 years, from 1960-2006.[70] The first act toward a constitution took place at the Conference de la Table, a month long conference in 1960 in Brussels, Belgium. Various stakeholders including representatives of Congolese political parties and traditional communities as well as representatives of the Belgian government and parliament participated in the Conference. The representatives decided on the date of the independence of the DRC and adopted a number of resolutions on the organization of the future state of the DRC and on the transitional legal regime that would obtain before independence on 30 June 1960.

After the initial Conference de la Table, the state of Congo went through six constitutions. On May 19, 1960, the Belgian Parliament passed the Fundamental Law on the Structures of the Congo the first acting constitution of 'Belgian Congo'. The Fundamental Law was later repealed in 1964 as a result of secession attempts of the Katanga and South Kasai provinces and the

[66] Constitute. "Congo (Democratic Republic of the)'s Constitution of 2005 with Amendments through 2011". Constitute Project, 2011.
[67] Constitute, "Congo Constitution"
[68] Dunia P. Zongwe, François Butedi and Phebe Mavungu Clément, "The Legal System of the Democratic Republic of the Congo (DRC): Overview and Research". GlobaLex, 2015.
[69] Constitute, "Congo Constitution"
[70] Zongwe et al, " The Legal System of the DRC"

assassination of Independence Prime Minister Patrice Lumumba. The Congolese people adopted a constitution, Lualabourg Constitution, on August 1st 1964. The Lualabourg Constitution was the second constitution for the state of Congo DRC and the First Republic constitution that was written by Congolese and submitted to a constitutional referendum. In 1967 the second republic introduced a revolutionary constitution, a consequence of Mobutu's dictatorship and the state's third national constitution. After the fall of Mobutu a national conference in 1991 initiated a project for a new constitution for the future Third Republic, resulting in the nation's fourth constitution.

The last three constitutions of the state came after the fall of both Mobutu and Laurent Désiré Kabila's regime. In May 1997, upon deposing Mobutu, Laurent Désiré Kabila issued a decree-law that performed the function of a constitution, known as the Constitutional Act of 1997. A year after Laurent Kabila's Congolese political parties and belligerents signed a peace agreement sponsored by the international community. The 2002 Pretoria peace agreement established a constitution of national unity, the Transition Constitution laid down a few cardinal principles that have been carried over in the 2006 Congolese Constitution, such as the unity of the country and several fundamental human rights and freedoms. The sixth and final constitution for the state, the 2006 Congolese Constitution, introduced by Joseph Kabila presidency in December of 2006 formally ended the decade-long period of transition that started in 1991.[71]

Currently the Congolese Constitution provides for a clear separation of powers into three national institutions (the government or the executive, the legislature, and the judiciary) and four checks and balances. The two main branches, executive and legislative, consist of four institutions.

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[71] Zongwe et al, " The Legal System of the DRC"

The new institutions of the DRC are the President of the Republic, the government, the Parliament, and the judiciary[72]. The following section detailing the institutional structure of the state speaks to the scope of the executive and legislative branches and the strength to meet its capacity.

4.4 Institutional Structure: The Executive and Legislative Strength

Executive Branch

The executive branch is composed of two institutions: the national president and the national government. While the national president has greater power, he must work with the national government to establish national policy.

The first institution of the Republic is the national President. The President, elected by universal suffrage, serves a term of five years, renewable only once. The incumbent President is therefore not allowed to seek a third term.[73] The President is the guardian of the Constitution, national independence, territorial integrity, and national sovereignty. He ensures the performance of international treaties entered into by the state and the running of national institutions, in partnership with the government. As dictated by the Constitution, the President is required to co-operate with the national government (Prime Minister) in the areas of foreign affairs, security and defense. These areas were previously the exclusive preserve of the President.

The second institution of the Republic is the national government, led by the Prime Minister.[74] The Prime Minister leads the government and defines national policy, which he

[72] Zongwe et al, " The Legal System of the DRC"

[73] The next presidential elections were scheduled for 2016, and current President Kabila has failed in upholding the duties of the president office and holding the 2016 elections.

[74] President Joseph Kabila appointed Augustin Ponyo Mapon Matata as Prime Minister in May 2012

formulates in consultation with the President. The Prime Minister is accountable to the Parliament, which has been equipped with the power to sanction him by a motion of censure.

Legislative Branch

The Parliament is the third institution of the Republic. The Parliament in the DRC (*Palais du people)* is located in the capital, Kinshasa. The parliament consists of two main branches, executive and legislative and consists of four institutions consisting of a lower-house, the National Assembly, and an upper-house, the Senate. The National Assembly and the Senate acting collectively (i.e. the congress) have the power to institute legal action in the Supreme Court of the DRC against the President and the Prime Minister for high treason. When established, the Constitutional Court will have exclusive jurisdiction to hear and determine such legal actions. The Parliament can also sanction individual ministers by means of a no confidence vote. The Parliament can also be checked and even dissolved if persistent conflict between the National Assembly and the executive.

The judiciary is the fourth institution of the Republic. The Constitution ensures the independence of the judiciary. The judiciary is presently undergoing several reforms to comply with new constitutional requirements. The Constitution constructs the judiciary into three separate hierarchies of specialized court systems, known as *ordre de jurisdiction (*court system*):* the constitutional, the ordinary (civil and criminal), and the administrative court systems. Each court system has its own supreme court, namely the Constitutional Court, the Court of Cassation, and the Council of State, respectively.

The government has established a code of conduct to promote transparency and integrity in the public and the private sector, as well as civil society organization. However, the code has not implemented in practice.[75] Whistleblowers are not protected under Congolese law. There are no mechanisms in place to monitor, evaluate and/or audit the public administration, which has in turn contributed to the continuous degradation of the country's institutions.[76] A lack of monitoring of government expenditures has led to untracked high discretionary spending. Management of administrations take a backseat to high levels of patronage; where key administrative and governmental positioned being given based on complex patronage network.[77]

Administrative Capacity

Although the state appeared to be tightly controlled from the top, in reality its effective authority did not reach very far. From federal to local levels, the administrative capacity of the state falls short. In his 2006 inauguration speech, President Kabila acknowledged that the Congolese administration "exists in name only" and that there is an urgent need for a "refoundation of the state" based on the "trilogy of good governance, democracy, and respect for human rights."[78] Government employees routinely neglect their duties, divert funds and use their positions to make money. Some regional governors ran their territories like semi- autonomous fiefdoms. Army officers embezzled the salaries of their subordinates and trafficked in arms, gold and diamonds. Lack of administrative capacity has led to civil servants such as police officers and troops turning to pillaging and extortion as a way to deal with a lack of salary.[79] Historically the lack of administrative capacity has opened the state's institutions to both internal and external exploitative forces. The ability of the ragtag AFDL and relatively small countries such as

[75] Bertelsmann Stiftung's Transformation Index, "Congo, DR"
[76] Bertelsmann Stiftung's Transformation Index, "Congo, DR,"
[77] GAN, "DR Congo Corruption Report". Business Anti-Corruption Portal.
[78] Ernst Harsch, "Building a State for the Congolese People". *Africa Renewal,* January 31, 2008, 10pp.
[79] Harsch, "Building a State"

Rwanda and Uganda to exert such influence over the much larger DRC "would have been unthinkable if the Congolese state institutions were functioning in a normal way as agencies of governance and national security, rather than as Mafia-type organizations serving the selfish interests of Mobutu and his entourage."[80] This has led to corruption being an embedded feature of state and local administration in the DRC.

The administration of the state is corrupt, underfunded and lacks professional personnel and resources. This results in infrastructure that is fragile in most major cities and almost nonexistent in remote areas. Attempts at reform, such as further decentralization from 11 provinces to the constitutionally recommended 26, were considered an important step toward reconstruction due to the country's immense geographical size. However, it was never implemented. A large majority of the country is repeatedly subject to two parallel administrations, one by the state and one by armed groups. In those parts of the country that are subject to rebel rule, democratic institutions do not perform at all.[81]The Congolese people's inability to rely on both state and local administrations has led to increased inclination to rely on self-help and no trust in state institutions. Institutions are devalued due to corruption. The public administration is fragile and largely confined to major cities. A lack of funding and material makes corruption the only available means of survival for many employees of the administration and service delivery is thus extremely deficient. The high levels of petty corruption can be attributed to a weak administrative capacity and a shortage of resources, combined with low-salaries or unpaid staff.[82]

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[80] Harsch, "Building a State"
[81]Bertelsmann Stiftung's Transformation Index,, "Congo, DR"
[82] GAN, "DR Congo Corruption"

Evolving beyond a means of political survival, corruption has become an institutionalized behavior. One quarter of companies identify that business licenses and permits are a major constraint to doing business and half of businesses believe that offering gifts to officials is part of the process of 'getting things done', and expect the same when applying for a water or electrical connection.[83] Companies starting up a business may encounter demands for bribes disguised as dubious payments, non-existent taxes, or fees.[84] Efforts to improve state capacity have focused on positive implications for tax revenue and public funds. Prime Minister Antoine Gizenga announced that the contracts of some 60 foreign mining companies would be reviewed. Since many of the contracts were signed during the war, often with corrupt officials, allow excessive repatriation of profits abroad and provide only minimal payments to the Congolese treasury. The government is reforming its tax and customs administration, which currently is fragmented into numerous entities and makes it easy for the wealthy to evade paying. The government also plans to simplify the tax code, strengthen its "large taxpayers" unit and set up 10 tax centers for medium-sized enterprises around the country, currently there is only one. The government already has been able to significantly increase its revenue collection, which rose from 91 bn Congolese francs (FC) in 2001 to an estimated FC529 bn in 2006.[85]

Political Institutions: CEI and CENI

Electoral commissions represent one of the weakest areas of the DRC's political institutions. Since independence in 1960, the country has had two democratic elections, and 3 official leaders. The former transitional national electoral commission, known as CEI (the

[83] GAN, "DR Congo Corruption"
[84] GAN, "DR Congo Corruption"
[85] Harsch, "Building a State"

Commission Electorale Independente), conducted the first democratic elections in 2006 with a recorded 25 million registered voters. This election was rated as generally acceptable given the seemingly impossible task of registering voters with no infrastructure, and no credible population count.[86] With 33 presidential candidates and 10,000 candidates vying for 500 parliamentary seat, Joseph Kabila won the 2006 elections in the second round with 58% of the vote. The DRC's post-transition constitution established a system in which the president is directly elected by an absolute majority for a five-year term. In order for a candidate to be elected president, they must secure 50% plus one of the total valid votes cast by registered Congolese citizens. [87] The relative success of the CEI and the 2006 presidential elections would be short lived.

In July 2010, President Kabila signed into law the establishment of a permanent National Independent Electoral Commission (CENI) to replace the transitional CEI. CENI was formally instituted in February of 2011, just several months before scheduled presidential elections in November 2011.[88] CENI made critical errors and changes that brought doubt to its legitimacy. The 2011 pre-election period was marked by electoral violations, severe intimidation and targeted violence against civil society activists.[89] The new electoral system quickly lost credibility by poorly updating the voter registration. A major change in the electoral system came in the form of a constitutional amendment that eliminated the second round of voting and replaced the necessary majority win with a relative majority win. This specific amendment was seen as a calculated effort to help President Kabila in the 2011 elections.

[86] Bertelsmann Stiftung's Transformation Index, "Congo, DR"
[87] Dieudonne N. Tshiyoyo, "Post-Transitional Elections in the Democratic Republic of Congo". *The Electoral Knowledge Network.*
[88] Dieudonne N. Tshiyoyo, "Post-Transitional Elections"
[89] Bertelsmann Stiftung's Transformation Index, "Congo, DR"

CENI was accused of other instances of corruption including manipulation of voter turnout[90], result manipulation in various counting centers, intimidation of polling staff and chaotic result collection. As a result, in July 2012, the CENI was suspended by the national assembly, with a new CENI law passed in 2013. Despite promises to allow for a new composition in leadership and an improved electoral process, along with the inclusion of civil society members in the commission, the CENI came under critique for publishing an incomplete electoral calendar for 2015-2016 and remaining ambiguous about the timing of presidential and parliamentary elections.[91] The democratic credibility of the presidency and the electoral process has been tested and remains in critical condition.

Policy Making- Influence Hierarchy and Weak Linkages

Using the agricultural sector as an example, the policy making process in the DRC is based primarily on hierarchical influence. Studies report that high-level policy- and lawmakers like the President and the Members of Parliament are given the highest influence score of six because they set national priorities, which in turn influence the budget allocation and disbursement to the different sectoral ministries and public services.[92] The next most influential is the Ministry of Budget, which decides on actual budget allocation for the sector ministries, with an influence score of five, followed by the Ministry of Finance, which sets priorities on actual budget disbursement (influence score = four). The prime minister also has strong influence in setting

[90] CENI reported 100% voter turnout for President Kabila

[91] Bertelsmann Stiftung's Transformation Index, "Congo, DR"

[92] Catherine Ragasa et al., "Institutional Reforms and Agricultural Policy Process: Lessons from Democratic Republic of Congo". *Agricultural and Food Economics* 2, 4 (2014): 1-21.

national priorities and agricultural policies.[93] The issue that exists with this influenced based model is the weakened linkages that emerge between relevant parties.

National decision-makers such as the president, parliament, and prime minister are not reached systematically by sources of evidence and relevant research on the role and importance of the agricultural sector and on viable options and priorities of advancing the sector. Although the offices of the president and prime minister do have agriculture advisors, key informants suggest only weak interaction between them and the Ministry of Agriculture, Fisheries and Livestock (MINAGRI).[94] There is also a commission in the parliament that looks at agriculture and natural resources policies, but key informants also suggest a weak linkage between members of this commission and MINAGRI.

4.5 Ministry of Mines

The Minister of Mines is responsible for overall policy formulation and implementation, this includes granting, refusing, and cancelling mining rights. The Mining Registry, established in June 2003, is tasked with enforcing the Mining Code's regulations and carries out a number of administrative functions, including the processing, re-issuing, expiry, withdrawal, or cancelling mining exploration and exploitation permits.[95]

Mining Laws: Mining Code 2002

The mining industry in the DRC is governed primarily by the 'Mining Code', Law No. 007/2002 of 11 July 2002 and by the subsequent mining regulations enacted by Decree No. 038/2003 of 26 March 2003, known as 'the Regulations'. In addition to the Mining Code, other

[93] Ragasa et al., "Institutional Reforms and Agricultural Policy Process"
[94] Ragasa et al., "Institutional Reforms and Agricultural Policy Process"
[95] Constitute, " Congo Constitution"

sources of law such as tax legislation, the customs code, Law No. 11/009 of July 9th 2009 contain provisions affecting the mining industry. the Tax Code, the Customs Code, Law No. 11/009 of 9 July 2011 establish the basic principles for the protection of the environment, whereas the Investment Code, Law No. 004/2002 of 21 February 2002, the Labour Code, Law No. 015/2002 of 16 October 2002 deal with corporate matters such as shareholdings and public-private investment issues.[96]

There are currently two mechanisms for the acquisition of rights in the mining sector. One, obtaining a research permit, through conducting a reconnaissance, two, obtaining an exploration permit, which entails obtaining the relevant requisite type of exploration permit to conduct mining activities (Production Permit, Tailings Exploitation Permit, Small Mine Permit).[97] Procedures applicable to different minerals are the same for different minerals, but not to minerals declared as "reserved substances". Additionally, procedures applicable to different types of land are the same, but not to lands declared as an "off-limits area" for mining activities and/or quarry works.

Scope of Mining Code

The Mining Code is intended to reduce government intervention in the mining sector while strengthening its regulatory role, and to encourage private investment through the establishment of a sound legal framework[98]. It provides a comprehensive set of rules applicable to all aspects of mining, including acquisition, transfer, operation and termination of mining rights, environment protection, cultural heritage, protection of neighboring communities, tax and customs incentives,

[96] Newton Mthethwa "Mining in the DRC, a Palatable Endeavour?" *African Mining Brief*, February 29, 2016.
[97] Mthethwa, "Mining in the DRC"
[98] Mthethwa, "Mining in the DRC"

regulations on the transportation and sale of resources, and a framework for artisanal mining. It also covers the quarrying activities on a self-contained basis.[99] The code also takes into account fiscal decentralization in regards to national revenue.

Article 175 of the Constitution stipulates that 40% of the national revenue should be allocated to respective provinces. As a response to this, Article 242 of the Mining Code provides for a sharing mechanism of mining royalties paid to the Treasury by holders of mining exploitation titles. The sharing arrangements are as follows: 60% of the revenue of income kept by Central Government. 25% of the revenue should be paid to an account designated by the Administration of the Province where the project is located and 15% of the revenue should be paid to an account designated by the City or the Territory within which operation takes place.[100]

[99] Mthethwa, "Mining in the DRC"
[100] EITI, "Democratic Republic of Congo Report". EITI.org, last modified 2014, https://eiti.org/DRCongo.

4.6 Mining Industry in the DRC

Commodity	Production	Reserves	Unit	Significance
Cobalt	3.4	56,000	Million tons	DRC was the world's largest producer of cobalt in 2014. According to the USGS, identified world terrestrial cobalt resources are about 25 million tons. "The vast majority of these resources are in sediment-hosted stratiform copper deposits in Congo" Source: **USGS Mineral Commodity Summaries 2015**.
Copper	1.1	20	Million tons	Production of copper in the DRC reached 1.1 million tons in 2014 according to the EITI report. Identified reserves are estimated at 20 million tons according to the **USGS Mineral Commodity Summaries Report, 2015**.
Diamond	18	150	Million carats	DRC was the world's largest producer of diamond in 2014, and holds the second largest reserves after Australia. Sources: **EITI 2014 Report and USGS Mineral Commodity Summaries Report, 2015**.
Gold	24		Thousand kilogram	Gold production quadrupled in 2014

Source: **Production figures are from the 2014 DRC EITI Report. Identified reserves are from the U.S. Geological Survey, Mineral Commodity Summaries, January 2015**.

(Source: EITI. "Democratic Republic of Congo Report". 2014)

The DRC has some of the world's richest mineral deposits, including copper (10% of world supply), cobalt (34%) and niobium (80%). Despite this mineral wealth, The DRC has yet to translate into sustainable socio-economic development as laid out by the Africa Mining Vision. The 2009 Africa Mining Vision, formulated by Africa's natural resource ministers, maps out how to unlock the socio-economic benefits of the continent's mineral wealth. Most mining is carried out by the largest state-owned company, the Générale des Carrières et des Mines du Congo (GECAMINES), which accounts for over 90 percent of total copper production, and the entire cobalt and zinc output. In the diamond sector, while the Société Minière de Bakwanga

(MIBA), partly owned by the government is responsible for the industrial mining of diamonds, individual prospectors account for some 60 percent of total diamond production.[101]

Key recommendations include strengthening horizontal and vertical economic linkages between the mining sector and national enterprises and other economic sectors, improving the quality of the business environment, increasing private sector confidence and participation, and reducing entry barriers and operating costs to achieve economies of scale. The DRC's macroeconomic gains from mining have risen steeply since the end of the civil war in 2002. However 71% of the population still live in poverty, human development indicators are substantially lower than the average for sub-Saharan Africa, and basic infrastructure such as electricity is limited.[102]

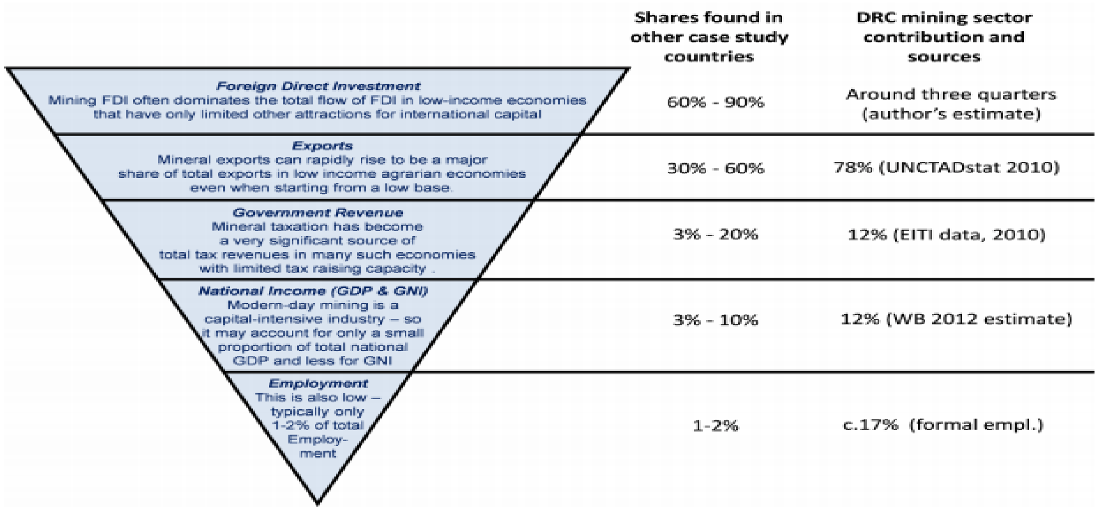
Economic Impact of Mining Industry

Mining has had a direct and positive macroeconomic impact on the DRC, accounting for a significant proportion of its GDP, employment, foreign direct investment and other key indicators. The indirect benefits, including impacts on the local supply chain and multiplier effects, are also substantial and can be transformative at the local level. The mining industry accounts for about 12% of GDP, and has slowly helped the country improve economically.

[101] Akitoby and Cinyabuguma, "Sources of Growth"

[102] Oxford Policy Management. "The Impact of Mining in the Democratic Republic of Congo Performance to Date and Future Challenges". *Oxford Policy Management*, October 2013.

Figure 2: Overview of macro-level contributions of mining in DRC



Source: Authors' estimates and previous work undertaken by OPM, based on publicly available data.

(Source: Oxford Policy Management, "The impact of mining in the Democratic Republic of Congo Performance to date and future challenges". *Oxford Policy Management,* October 2013**)**

Since the end of the civil war in 2002, mining has enabled the country to move from a prolonged and deep economic recession from 1988-2001, to a phase of strong economic growth with annual GDP increasing by 5-6% and mining accounting for 12% of total GDP.[103] Beyond taxes, royalties, and dividends, a significant share of the income from mining remains in the country in the form of salaries, payments to suppliers, and social investments. Mining has also contributed to employment in the country. The World Bank estimates that one sixth of all formal employment comes from mining, generating 50,000 jobs.[104]

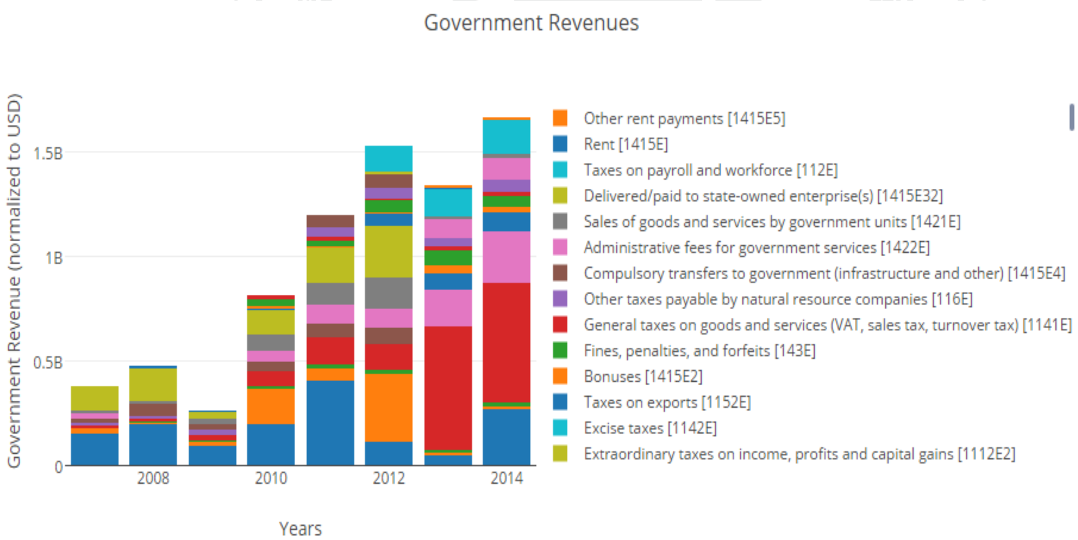
In regards to tax revenue and capacity building, positive changes have occurred as well. The DRC generates a surplus of foreign reserves to weather the effects of any negative commodity price shocks on the economy. In 2011, foreign direct investment (FDI) increased more than six-

103 Akitoby and Cinyabuguma, "Sources of Growth"
104 Oxford Policy Management, "The Impact of Mining"

fold for 75% of total exports.[105] Mineral-related exports increased from US$1 billion in 2002 to nearly US$5 billion in 2011. In 2010, 21 mining companies operating in the DRC paid US$773 million in taxes, equivalent to more than 10% of the government's estimated total revenues of US$6.4 billion.[106] Mining companies have invested heavily in local infrastructure, including the construction of roads of hydroelectric plants. There have additional best-practice investments in local public services, including health and education.

Improvements in Mining Revenue

Improvements in the country's mining revenue have come directly from large foreign companies and national joint ventures.



(Source: EITI. "Democratic Republic of Congo Report". 2014)

New investments in the mining sector led to a significant increase in production from 2010 to 2014,The Kipoi and Kamoto mines, which contain exceptionally high grades of copper (3% or five times the industry average), were producing at full capacity in 2014. The rapid expansion of

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[105] Oxford Policy Management, "The Impact of Mining"
[106] Oxford Policy Management, "The Impact of Mining"

production capacities were partly due to relatively low operation costs afforded by the high grade of copper and a competitive fiscal regime. The country's largest taxpayer in 2014, Kamoto Copper Company (KCC) was 75% owned by Katanga Mining (listed at the Toronto stock exchange, KLM), 25% by the government of the DRC through its SOEs (Gecamines (20%) and SIMCO (5%)). KCC's production tripled from 52,000 tonnes of refined copper in 2010 to 151,000 tonnes in 2014. The EITI Report showed that the company produced USD 1 billion worth of minerals and metals in 2014 and paid USD 343 million in taxes to the government. Majority of the mining industry in heavily dominated by large foreign and locally owned companies that bring in large tax payment. Mutanda Mining, (MUMI), a joint venture of Glencore (69%) and Fleurette Mumi Holding (31 %), was the second largest taxpayer in 2014.[107] MUMI produced USD 1.6 billion worth of mineral and metals in 2014 and paid USD 210 million in taxes, royalties and dividends to the government.[108]

Another company, Tenke Funkurume, which is the world's largest producer of cobalt, began production of cobalt and copper in the second quarter of 2009 and increased rapidly from 120,000 tonnes of refined copper in 2010 to 192,000 tonnes in 2014.[109] TFM is also a joint venture that the government has 20% ownership of that has produced USD 1.6 billion worth of minerals and metals in 2014 and paid USD 205 million in taxes, royalties and dividends to the government.[110] Mining operations at the Moto goldfields by KIBALI Gold Mines, another joint venture company involving AngloGold (45%), Randgold (45%) and the Government of the DRC though its SOE SOKIMO (10%) has led to gold production being quadrupled from 6,000 to

[107] EITI, "DRC Report"
[108] EITI, "DRC Report"
[109] EITI, "DRC Report"
[110] EITI, "DRC Report"

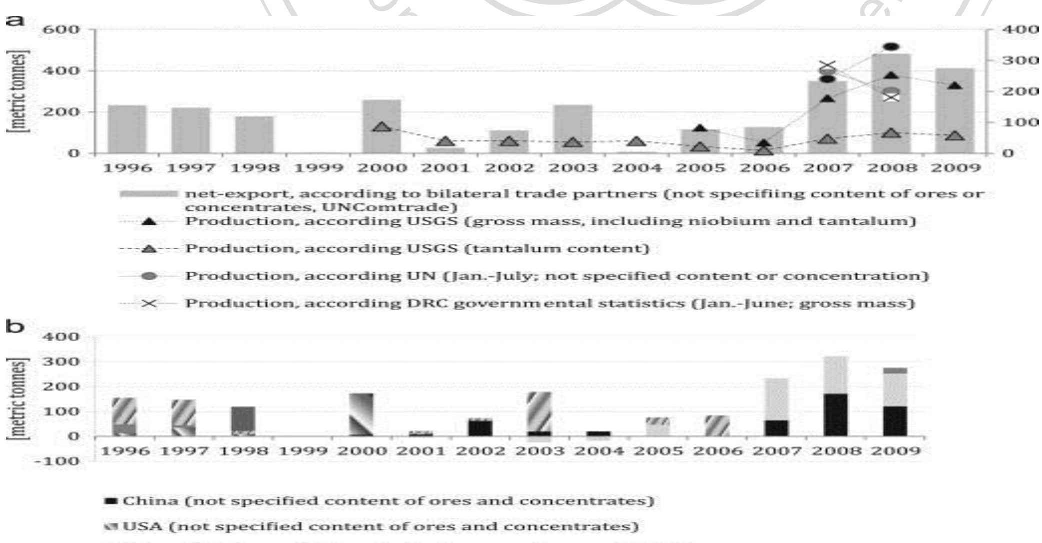
24,000 kilos in 2014, mainly due to the launch of mining operations at the Moto goldfields.[111] The project is the DRC's first large industrial scale gold mine and represents USD 2.5 billion in investments.[112]

While the industry is dominated by a few large companies making substantial investments in the country's economy, the government apparatus' ability to collect taxes and regulate the industry remains highly fragmented. The eight largest mining companies that paid more than USD 5 million to the government accounted for 90% of annual revenues, yet, more than 20 government agencies and SOEs collect 53 separate revenue streams, from oil, gas and mining companies at the central and local levels.[113] The multitude of taxes, which require individual monitoring, and the proliferation of government agencies amplify the administrative burden for companies and raise the cost of collecting taxes for the government. This is evidenced by only 72% of all collected revenues going to the treasury in 2014. While only 10%, an equivalent of about USD 200 million went to provincial governments and local communities. SOEs and other government agencies collecting taxes on behalf of the government withheld 18% of collected revenues.[114] This deliberate mismanagement of mineral revenue is the contentious issue at the heart of the DRC's lack of economic development despite mineral wealth and a seemingly promising mining industry.

[111] EITI, "DRC Report"
[112] EITI,"DRC Report"
[113] EITI",DRC Report"
[114] EITI, "DRC Report"

4.7 Coltan Trade in DRC

Demand for coltan began in the 1990s following the industrial tech boom. Coltan a name specific to the DRC, is also widely known as Tantalum, are capacitors used in electronic items ranging from cell phones to PCs, pagers etc. Globally coltan can be found in Australia, DRC, Brazil and Canada. While Australia is the largest global producer of coltan, DRC has the largest reserves, holding about 80% of the world's coltan supply. What separates coltan mining from gold or diamond is that most coltan mining in the DRC is mostly artisanal. Being at such a smaller scale, coltan trade is highly vulnerable to corruption and armed intimidation and exploitation. Coltan mining in the DRC has been a source of political power and wealth, contributing the continuation of the armed conflict in eastern Congo, a region rich in coltan minerals. The areas include Bukavu, Kisingani, Mbuji, Mavi, and Lubumbashi. Due to their vale, these areas were placed under the control of ADFL. The process of illegal coltan exploitation at the hands of foreign countries, particularly neighbors Uganda and Rwanda exploits the fragmented state "They have,

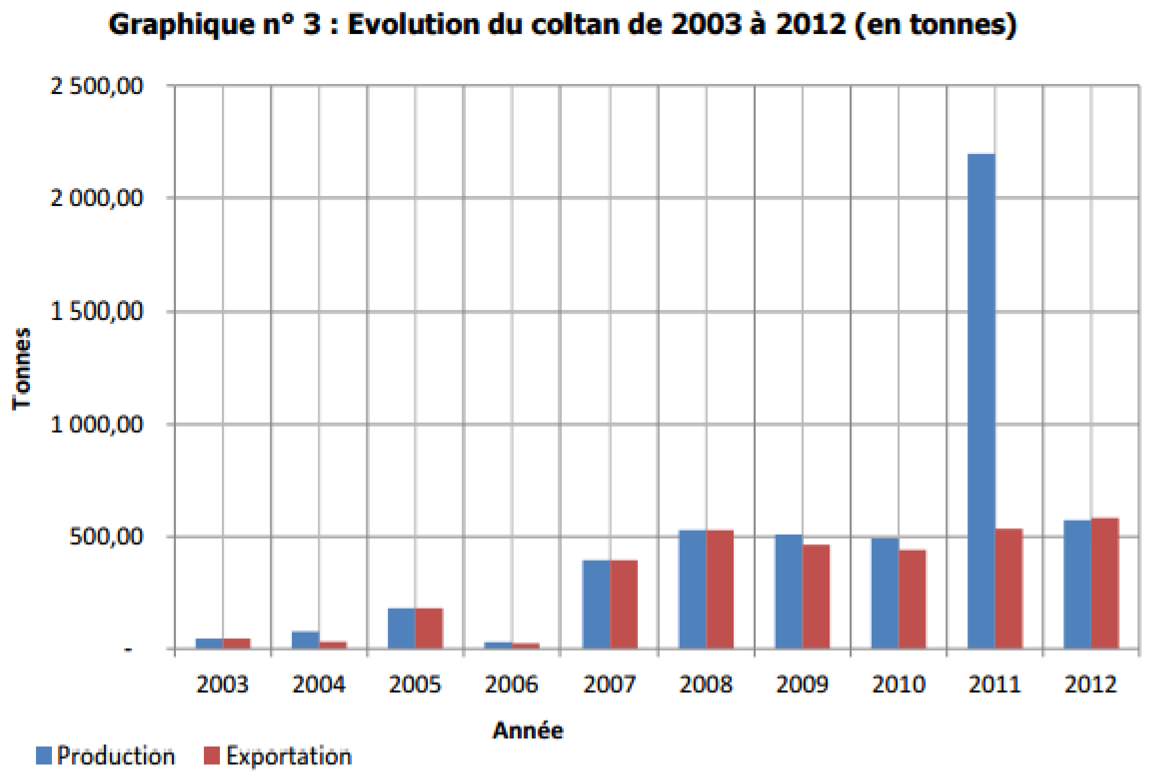


Source: UNComtrade; Bleischwitz, Raimund, Monika Dittrichb,Chiara Pierdicca(2012) directly or indirectly, appointed local rebel faction leaders and field commanders to serve as conduits for illicit trade originating from the occupied territories of the eastern DRC. The Rwandan and Ugandan companies have monopolies over minerals mined in their respective territories. Middlemen are hired to form relationships with western clients, and they facilitate transactions between these companies and foreign corporations without questioning the legitimacy of the DRC-based enterprises. [115] Due to the illicit nature of this exchange, once the coltan is sold to the international market, it is impossible to trace it back to its original mine.

Development of Coltan Trade: Artisanal Mining in the DRC

Coltan mining has a long history in the DRC, dating back to colonial times. The minerals cassiterite and coltan were discovered in the Kivu region in 1910, and quickly the tin sector became controlled by private Belgian companies.[116] By the first half of the 1940s, production of cassiterite amounted to more than 10 000 t per year and employed more than 73 000 people. In this period, the trade of tin was prosperous due to investment in industrial exploitation, enabling a further rise in production in the 1950s and 1960s[117]. Despite gaining independence in the 1960s, independence of the DRC did not have a significant impact over mining, as Belgian private companies remained in control of the mining sector. In the mid-90s, this lack of experience caused the industrial exploration of 3T to collapse, as the failing state could not manage the instability of the world market. .[118]

[115] Dena Montague, "Stolen Goods: Coltan and Conflict in the Democratic Republic of Congo." *SAIS Review* 22, 1 (2002): 103-118.
[116] IPIS, "The Formalisation Artisanal Mining in the Democratic Republic of the Congo and Rwanda". Center for International Forestry Research, December 2012.
[117]IPIS, "The Formalisation Artisanal Mining"
[118] IPIS, "The Formalisation Artisanal Mining"



(Source: Ministre des Mines. "Statistiques Minieres de 2003 à 2012". Republique Democratique du Congo.)

It wasn't until after independence that Congolese people received the opportunity to mine independently. Mobutu liberalized the mining sector in 1982, and since then it has become an important source of revenue for impoverished people. Across the country as a whole, artisanal and small-scale mining is estimated to provide direct and indirect support to over 10 million people. In the eastern mines of the DRC alone there are over 500,000 miners supporting a wider community. Despite the high level of activity in ASM, the sector remained illegal until the 2002 DRC Mining Code. The artisanal mining sector remains largely informal. Despite a great number of artisanal miners and mineral traders, very few are officially registered.

Further damage ensued during the Second Congo War, when the eastern DRC's mining sector fell into the hands of mafia-like networks, which systematically exported minerals directly to Rwanda and Uganda.[119] External exploitation of the eastern DRC's mining sector resulted in increased wealth for foreign companies and countries, yet the eastern provinces gained nothing from these fraudulent exports. The financial connections and networks were already in place, during the early months of the war.

Illegal Coltan Trade

The illegality of coltan trade stems from two main sources, one, informality in ASM sector, and the dominance of armed militias at mining sites. High dependency on the mining sector has led to loopholes and evasion of With an average of four to five dependents for each digger, the total number of persons whose livelihood depends on this activity could be as high as 8 to 10 million or up to 16 % of the total population of DRC. Small scale miners have no legal mineral rights under the Mine Law (adopted 2002), instead of tax or mining license they have to buy annually a digger card for 25 US$ from provincial authorities. Many of the diggers cannot afford this amount, and at the same time government has no capacity to force the payment. In addition to financial difficulties, many artisanal miners do not perceive any incentive to purchase the card because they receive no additional support from the government in terms of technical support or improvement in infrastructure.

The involvement of children in mining also rises concerns over legality and violations of human rights. Besides not being registered, artisanal miners generally dig in areas where such extraction is legally prohibited, i.e. on industrial concessions. The Mining Code determines that artisanal exploitation is only permitted in specially designated artisanal mining zones, or zone d'exploitation artisanale (ZEA). Although some progress has been observed in their

[119] IPIS, "The Formalisation Artisanal Mining"

establishment, there are still large areas where not a single ZEA exists.[120] Some mines operate on a barter economy, which makes it risky or impossible for miners to save and invest. Nevertheless, in many parts of the DRC, ASM remains the sole income opportunity. Given the lack of alternatives however, Garett and Lintzer characterize ASM as the "safety net to support people and economies even under adverse circumstances. This position as a safety net, leaves ASM miners and traders extremely vulnerable to exploitation.

Armed Presence in Coltan Mines

The second source of illegal coltan trade comes from the grim reality that hundreds of thousands of artisanal miners are extracting ores with rudimentary tools and brute manpower. Both state and non-state armed groups are involved in exploiting the essential livelihood that ASM mining is in certain poverty stricken areas. Rebel groups control a large proportion of major mines in the DRC, profiting greatly from the extraction and trade of minerals. 12 out Of the 13 major mines, are reportedly controlled by armed groups.[121] The weakness of DRC's institutions and the lack of an effective and sufficiently paid national army, are responsible for the proliferation of military groups, which replace this vacuum with alternative forms of governance. ASM is often controlled by small, locally-based armed groups or militias, collectively called the mai mai. The larger armed units and the mai mai both "tax" the mines directly and indirectly extort money or minerals at the checkpoints they control.

Two dominant groups, the Congrès National pour la Défense du Peuple (CNDP), a political movement with a military wing called the Congolese National Army (CNA), and the Forces Démocratiques de Libération du Rwanda (FDLR) represent the face of armed militias

[120] IPIS, "The Formalisation Artisanal Mining"
[121] Dev Nathan and Sandip Sakar, "Blood on Your Mobile?" *Economic & Political Weekly,* 15, 43 (2010): 22-24

involvement in the illegal trade of coltan. They have both been investigated by UN Expert Panels for their involvement in mining. CNDP presence is limited to few coltan mines. The Bibatama Coltan mine e.g. is owned by a national senator who seems to accept the presence of the CNDP and pays a price of $0.20/kg exported at checkpoints. FDLR, on the contrary, has been present in the two Kivus for at least 14 years. The group can count on a strong business network that enables the militia to receive the supplies needed, including weapons. The UN panel estimates that FDLR is reaping profits worth millions of dollars a year from trade of minerals in eastern DRC. For these relations they are described as "les grands commerçants" and they often involve Congolese civilians that are forced to act or trade on their behalf.

Despite similarities in illegal trade, the level of involvement varies from one armed group to another. Generally the armed groups are involved in areas of taxation, payment of protection fees, commercial involvement in the mining activity and pillage. Worth noting, that these groups also profit from other minerals such as gold and cassiterite. The role state armed groups have also been a significant factor in delegitimizing the trade of DRC mined coltan. A UN report in 2010 established that the Congolese national army were involved in illegal trade. Congolese army units are competing among themselves for control over mineral-rich areas, they collude with armed groups in order to attack rival commanders, and they have gained control over large areas rich in natural resources in North and South Kivu provinces. In Walikale territory, the part of North Kivu richest in cassiterite (tin ore), control of the minerals trade was "awarded" to the N P to encourage it to integrate into the Congolese army, as agreed in an early-2009 peace deal. Though the formal army in the DRC is paid, the payment is just low, so the challenge is about the magnitude of payment and incentives for additional sources of income.

The deep militarized control over mineral rich areas has led to years of extensive illicit trade, so much so that one province, Katanga, sought to eradicate through a provincial mining monopoly. The Katanga governor imposed a tax of US$5/kg on transfers of cassiterite and its by-products to other provinces. Consequently, former trade routes to the Kivus were curbed to Lubumbashi, Katanga's provincial capital. Furthermore, the provincial government had found a preferential partner in a company called Mining Mineral Resources (MMR). MMR is a subsidiary of Somika, a Lubumbashi-based, Indian-owned mining and processing company that over the last decade has grown into a significant player in the Katanga copper and cobalt sector. Backed by its parent company, MMR has many times more human and financial resources than the Kivu trading houses.

At MMR mine sites, the Congo Artisanal Mining Cooperative organizes artisanal production and has a team of traders buying the minerals at the pit, where tagging procedures are executed by SAESSCAM in the presence of a representative of the mining administration, and with the assistance of iTSCi staff.[122] The company's policy is to refuse untagged materials. All transport is carried out by MMR itself, with its own or hired trucks and pick-ups. From MMR production sites, the company is able to organize a closed pipeline, which has convinced Motorola and AVX Corporation to buy extracted coltan under a project named 'Solutions for Hope'. Other companies such as Nokia, Hewlett Packard and Intel have subsequently joined the project. Early 2012 KEMET has launched a similar initiative to implement a model of vertical integration in the Kisengo mine in Katanga.[123]

[122] Emmanuel Freudenthal, "Who Pays the Hidden Price for Congo's Conflict-free Minerals?" *IRIN*, February 14, 2017.
[123] Freudenthal, "Who Pays the Hidden Price"

Conflict Free Coltan*: *MMR Monopoly

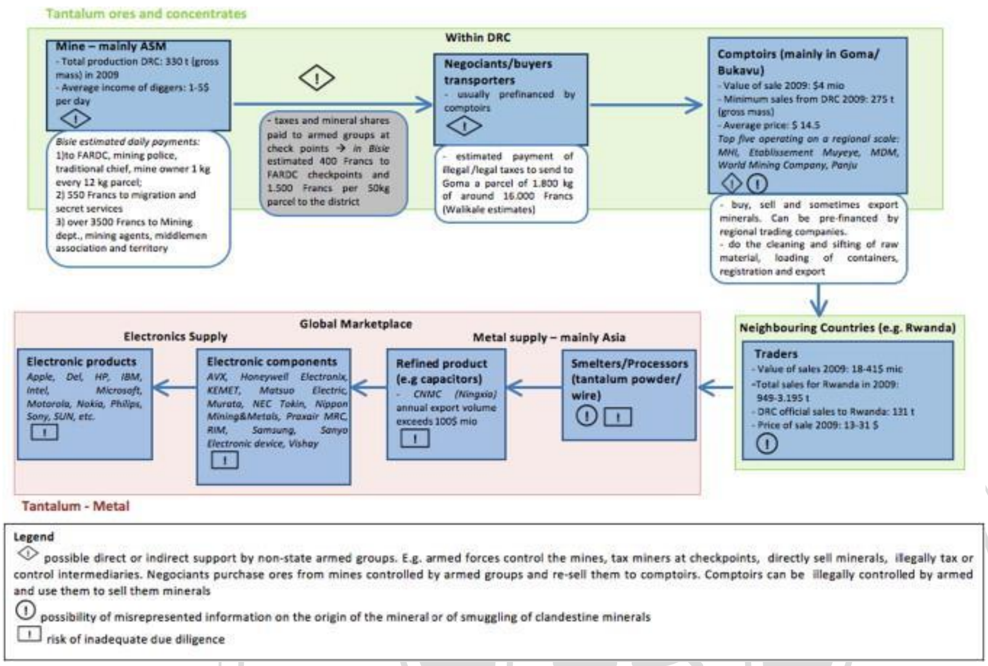
The tension surrounding coltan trade in DRC is the inability to verify that the ores were mined without armed duress and traded through open and legal channels. The mines validated as conflict-free can be just a few hills away from those controlled by armed groups Trade is often unorganized, due to miners and mineral traders operating independently and constantly on the move across the region. Conflict minerals can easily leak into the supposedly clean supply chains.[124] The contract between MMR and the provincial government of Katanga, intended to solve this problem. The agreement gave MMR exclusive rights, on the understanding that the company would prevent the mineral trade from funding armed groups and maximize tax revenues for the province. In exchange, MMR had to build a hospital and a school in Kisengo, which it eventually did. The contract also instructed MMR to collaborate with a miners' cooperative, CDMC, which, was founded by a brother of the mining minister. MMR has also used armed presence a way to enforce legal trade, with the help of the army, and latterly the police, as set out in its contract. In Kisengo, there are 43 policemen in the village, most of them armed with assault rifles, and five control points at its exits. It has been reported, though denied by the company, that MMR pays the police on top of their government salaries.

Companies such as MMR, lack the ability to manage ethically and represent the interests of the miners. Given the monopoly the company has in Kisengo, Purchase prices are set by a committee composed of MMR itself, formal representatives from the miners' cooperative, and

[124] Freudenthal, "Who Pays the Hidden Price"

government officials. Though CDMC is a separate entity, it is indistinguishable from the company. Its director sits behind an empty desk in MMR's building.

Figure 2. The supply chain of coltan for electronics industry.Source: Own compilation, OECD (2010), Resolve (2010), Garrett



and Mitchell (2009), Global Witness (2009), TIC (2010), UN reports (2008, 2010), Enough! (2009), Bleischwitz, Raimund, Monika Dittrichb,Chiara Pierdicca (2012).

The company has said: "All entities that work collaboratively with MMR on production of minerals spend time in MMR facilities." But MMR also pays the salaries of CDMC's employees. Despite MMR's efforts to reduce illicit trade of coltan in the regime, the prices offered by company are much lower than those offered on the black market. MMR has been buying coltan for $20-24 per kilo, whereas the black market offers double.[125] Several traders are able to smuggle minerals out of the Kisengo mine and sell them in areas like Kigali, Rwanda for $50 per kilo. [126]

Corrupt and armed interference have a huge impact on the movement of the supply chain. Often times they can push traders and miners into illegal trade. Unlike other conflict resources,

[125] Emmanuel Freudenthal, "Who Pays the Hidden Price"
[126] Emmanuel Freudenthal, "Who Pays the Hidden Price"

such as oil and diamonds, coltan is still in the process of developing a certificate process that is able to authenticate its origin. The profits gained from coltan had tremendous gains for Uganda and Rwanda, somewhere up to multimillion dollar revenue that has been used to sustain their respective wars in Eastern Congo. The UN identified 34 foreign countries importing minerals from the DRC via Rwanda. However major discrepancy still exists in the information available about coltan as it relates to illicit trade and investment in the DRC. The materials themselves are openly traded, as contracts are a matter of confidential knowledge between the buyer and the seller[127]. However two gateways have been identified 1. Neighboring countries, Rwanda being one primary example and 2. Importing Countries, China being one example of downstream production[128].

[127] Raimund Bleischwitz et al., "Coltan from Central Africa, International Trade and Implications for Any Certification". *Resources Policy* 37, 1 (2012):19-29.
[128] Bleischwitz et al., "Coltan from Central Africa"

-CHAPTER FIVE-

V. Botswana Case Study

This chapter highlights how interactions between government strength and resource abundance impact development, specifically in sub-Saharan Africa. It argues that strong governments which practice good governance are an essential feature in resource rich countries. The case study highlighted in this chapter is informed by the theory that conjuration of state strength and resource abundance propel and or fast track sub-Saharan African nations to development four possible situations arise from this interaction are theorized. First, strong government leads resource rich countries to faster economic development. Second, resource poor countries with strong governments undergo slower development due to lack of resources. Third, resource poor countries with a fragile state lead to unsatisfactory governance that erodes development. Fourth, the worst case scenario, resource rich countries with a fragile state leads to a lack of governance which results not only in stunted development, but pockets of uncontrolled violence and conflict generated by internal and external struggle between state and non-state actors to control resources for personal wealth.

We find, with some exceptions except in cases of outliers, higher GDP per capita associated with countries that are both resource rich and exhibit little to no state fragility. The chart below illustrates this trend through a most-likely/least likely model. Rankings of state strength and development are taking from 2015 World Bank world GDP per capita indicators and the Fragile State Index.

This chapter additionally provides a long discussion of, Botswana. Botswana's trajectory into one of the most successful, both economically and politically, Sub-Saharan nations enables highlights the impact of colonization on democratic transition, the state's capacity, and the development of the diamond mining industry. An extensive look on Botswana is conducted to showcase how a resource rich sub-Saharan nation must govern in order to derive development from resource revenues. By understanding that all nations are different, and acknowledging colonial legacies and their impact on a nation's statehood, Botswana's success is placed in context with its colonial past.

5.1 State Governance and Natural Resource Abundance

	Strong	**FSI**	**Fragile**	**FSI**
Resource Rich	Faster Development Botswana	62.8	Poor Governance Congo (DRC)	109.7
GDP per capita	6,360.1		456.1	
Resource Poor	Slower Development Benin	78.8	Weak Governance Guinea	
GDP per capita	762.1		531.3	104.9

(*Banda, 2017)*

This model illustrates, within the sub Saharan region, the importance of governmental strength in relation to resource abundance. The general distinction between state strength and state weakness is based on four criteria, one, the government's monopoly on force, two, adequate administrative capacity, three, effective power to govern, four, rule of law/separation of power. Weak governance imagines a state that is undermined by elements of corruption and violence, diminishing the state's capacity to act in its designated areas of authority. Without redress, poor governance is the final stage of weak governance, where the state capacity has been effectively disrupted. The best examples of this theory lies in the comparison of governmentally sound nations like Botswana and Benin who rank among the least fragile African nations, sharing ranking with nations such as Malaysia and Israel respectively. Despite a lack of difference between the two nations when it comes to FSI ranking, Botswana is able to lead in economic development due to its successful diamond industry. Benin however, lacks the resource abundance to catapult its nation to higher economic growth, but enjoys relative economic stability in comparison to DRC who despite resource abundance, economic development is stunted by its state fragility.

The following section below explores the economic and state development of both Benin and Guinea, in order to give context to the countries respective positions on the model. State development focuses on both the democratic transition of the state as well as assesses the strength of the state. Economic development primarily focuses on the state's economic performance and its leading sectors.

5.2 Benin

In the most likely least likely model presented in the beginning of this chapter, Benin is ranked as a relatively resource poor state with relatively strong governance. Due to few countries in the Sub-Saharan being truly resource poor, Benin is the best fit country to represent a sub-Saharan with low resource abundance and strong governance. Especially when compared to countries like the DRC and Botswana who examples of resource abundance. Making it more likely for the state to govern effectively within its capacity and provide a stable environment for economic development.

State Development of Benin

Prior to Benin's current stability, the 1960s marked not only the nation's independence from France but also instability within the state. From 1963-1972, Benin's political terrain was dominated by a military presence, with military coups dictating who held power in. The coups were partly attributed to a three-way ethno-regional split which characterized much of post-independence politics, power was divided mainly between the Fan, Yoruba and Bariba, and three political giants: Maga, Apithy, and Ahomadegbe.[129]Political support was based primarily on regional alliances. These coups resulted in a triumvirate presidential council. This presidency was a compromise among the three major politicians and took the form of rotating, two year presidential terms.[130] The compromise was abandoned after a peaceful transition of power from Maga to Ahomadegbe with another military coup in 1972.

In 1972, Maj Mathieu Kerekou's military administration the introduction of Marxist-Lenin ideology in Benin allowed Kerekou's complete control of the state. Kerekou's implementation of the Parti pour la Populaire au Benin absorbed all civil society, leading to the nationalization of oil companies and banks.[131] As the economy began to worsen, Kerekou's regime began to shift away from Marxist-Lenin ideology to a more moderate Socialist agenda in 1989; a shift that was institutionalized by a change in regime in 1990. The National Conference of 1990, composed of politicians and civil society leaders, voted to adopt a multiparty system and changed the capacity

[129] Sam Roberts, "Mathieu Kerekou, Director Who Ushered In Democracy in Benin, Dies at 82". *New York Times.* October 15, 2015.
[130] Roberts, "Mathieu Kerekou"
[131] Roberts, "Mathieu Kerekou"

of the state. This lead to the start of Benin's radical democratization processes, making it a trendsetter in the whole of Francophone Africa.[132] Benin has since organized six presidential elections, seven legislative elections and three local elections peacefully.[133]

Benin's relative strength as a West African state is attributed to the monopoly that the state has on the use of force, effective power to govern, and rule of law that ensures the separation of power, and adequate administrative capacity.[134] Although crime remains an issue in Benin, the state's monopoly on the use of force is established nationwide. There are no armed rebel groups active inside or outside of the national territory that threaten the state's legitimacy or power. This control has enabled the government to gain enough effective power to govern. The government no longer has to compete for power with a former heavy power player, the Army. Despite having effective power, rule of law still applies to the executive and is regularly followed through. Non-partisan judicial review by the Constitutional Court is a cornerstone of the political system and an effective check on actions taken by government and the National Assembly. [135]

The Constitutional Court has not demonstrated bias in favor of the executive. It effectively denied President Yayi's attempt to length the presidential term from 2 years to 3 years, and established that per the constitution the two-term limit would not be amenable.[136] In other cases the constitutional courts forced the president to replace one of his presidential appointments for procedural reasons. Greater administrative capacity exists in urban areas, with rural administration is still lagging behind. Through a basic administrative structure that permeates the

[132] Bertelsmann Stiftung's Transformation Index, "Benin Country Report"
[133] Department of Economic Development Dubai, "Benin- Economic Overview & Trade Analysis". Market Report, July 2016.
[134] Bertelsmann Stiftung's Transformation Index, "Benin"
[135] Bertelsmann Stiftung's Transformation Index, "Benin"
[136] Bertelsmann Stiftung's Transformation Index, "Benin"

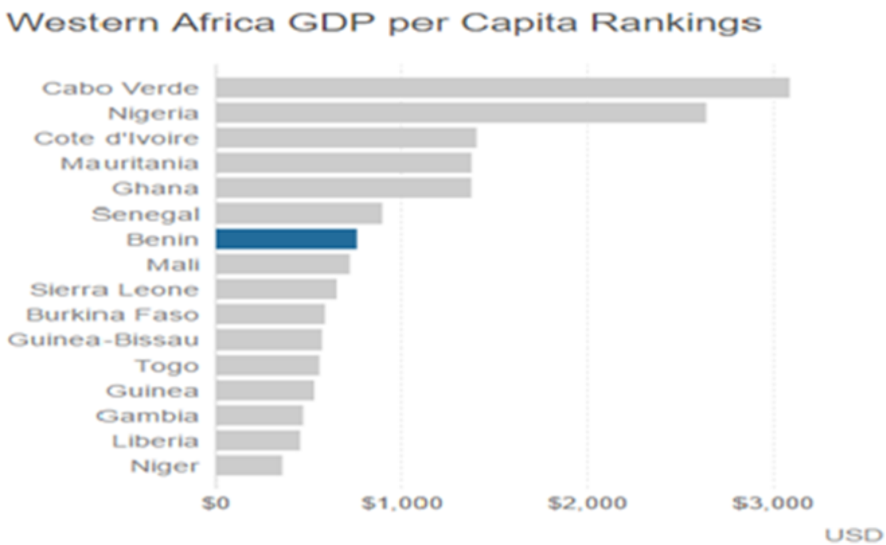
country, the state has been able to extend basic education to near full enrollment, and more than 75% have access to improved water sources.[137]

In order to address issues within the government administrative capacity, Benin's most current political shift has introduced the decentralization law .The de-concentration (administrative decentralization) portion of the reform is meant to bring the state's central administration closer to the local level for monitoring. Prefects appointed by the Ministry of the Interior for each province (regrouping up to nine communes) coordinate all government activities, oversee and approve the decisions and actions of the conseil communal, with the power to suspend, cancel or substitute council decisions.[138]

Benin Economic Summary

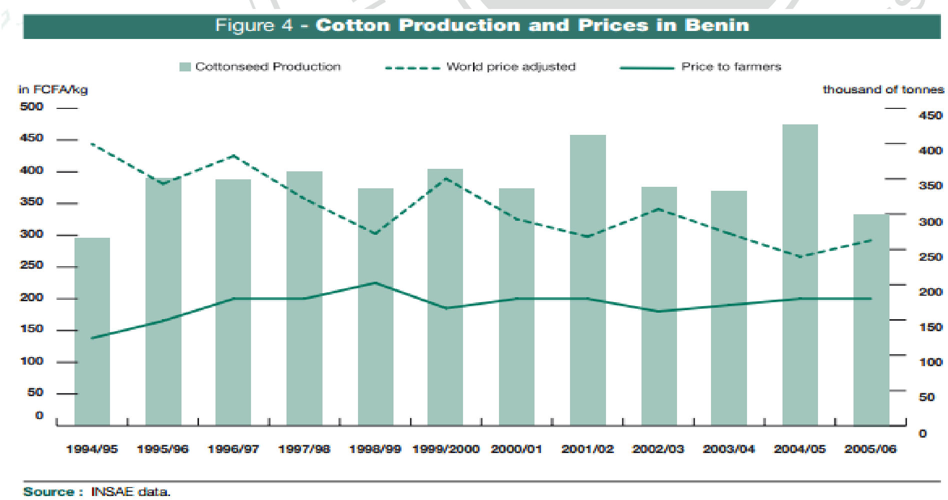
Despite being a resource poor country Benin has fared relatively well amongst its West African neighbors, with its GDP Per Capita ranked 7/17. Much of its economy has been and continues to be based on agricultural exports and foreign aid. Benin is primarily agriculture based, with cotton being the driving force. Per the figure below, the cotton sector has driven the economy since the birth of the nation to and after its democratic transition in 1991. Three specific periods of economic transformation have occurred.

[137] Bertelsmann Stiftung's Transformation Index, "Benin"
[138] Roch Mongbo, "State Building and Local Democracy in Benin: Two Cases of Decentralised Forest Management". Conservation and Society 6, 1 (2008): 49–61.



(Source: google images)

[139]The colonial state of Dahomey (Benin), from the period of 1930-1960s grew in relative and absolute magnitude to assume a pivotal role in the economy at the expense of the commodity exchange and private capitalist sectors. The final period of economic transformation saw the rise to dominance of the capitalist mode of production in the social formation in Dahomey.



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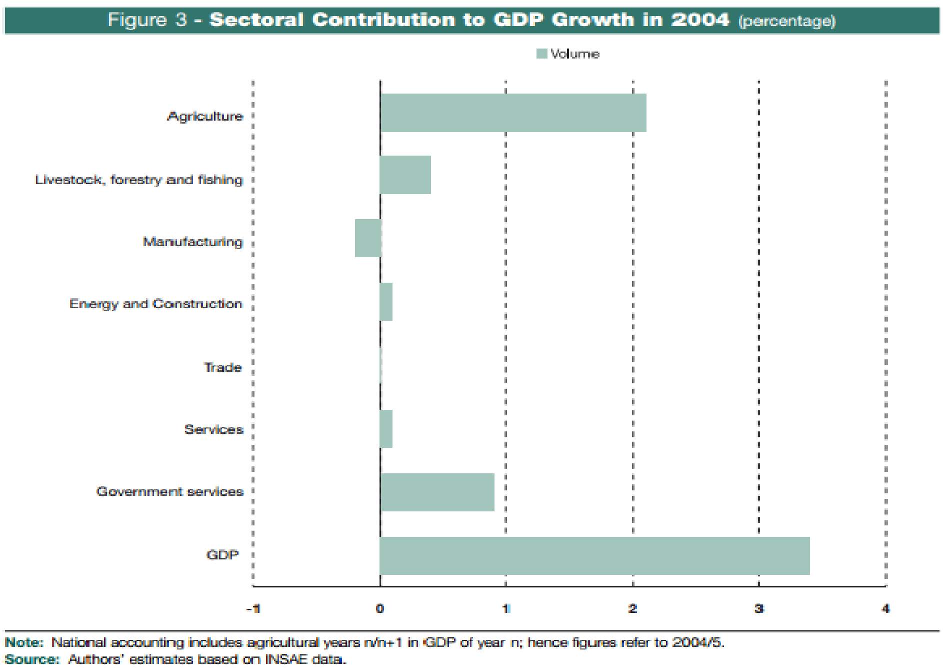

(Source: OECD. "Benin". Report for African Economic Outlook. 2008)

After independence, economic crisis was the catalyst for future economic change. Strikes, slowdowns on the part of civil servants began in the late 1988, pushing the regime's ongoing negotiations for the very first IMF structural adjustment programs.[140] Economic growth improved in 2011 and 2012, after the shocks of 2009 and 2010, related to the global economic crisis and flooding.[141] But Benin's exports are still mostly made up of agricultural products, with cotton constituting 40 percent of total exports, followed by cocoa, maize and seafood[142]. This lack of diversification does make the country's trade highly vulnerable to weather conditions and price fluctuations, leading to doubts about the security of the cotton industry. The development of the cotton sector is indicative of the difficulties facing Benin in taking up the challenge of

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140 Patrick Manning, *Slavery, Colonialism and Economic Growth in Dahomey, 1640-1960. (*Cambridge: Cambridge University Press, 2004).

141 African Development Bank. "Benin and the AfDB". African Development Bank Group.

142 Trading Economics. "Benin Exports".

medium- and long-term development.[143] The malfunctioning of the new, completely private, regulation system obliged the State to intervene at the end of 2004 in order to organize the harvest and put some order into the way in which the sector worked.[144] Structural instability has continued to undermine the growth of the cotton industry, disrupting rising production levels.

Table 2. List of Industrial Units involved in the Cotton Sector in West Africa (2006 or the most recent year)

	Ginning Factories			Oil Factories	Textiles
	Number of factories	Ginning Capacity (Tons)	Cotton Grain Production (2000-05)	Industrial Units	
Benin	20	650,000	415,000	2	4 (incl. 1 inoperative)
Burkina Faso	15	535,000	432,000	1	2
Cameroon	9	300,000	219,000	1	5
Chad	10	230,000	198,000	1	1 (closed)
Côte d'Ivoire	12	420,000	346,000	1	12 (incl. 8 inoperative)
The Gambia	1	10,000	5,000	-	-
Ghana	n.a.	n.a.	20,000	n.a.	5
Guinea	1	n.a.	49,000	-	1
Guinea Bissau	1	n.a.	4,000	-	-
Mali	17	600,000	515,000	3	2
Niger	2	60,000	10,000	-	2 (incl. 1 inoperative)
Nigeria	2	n.a.	378,000	n.a.	About 100 (incl. 60-80 inoperative)
Senegal	5	65,000	41,000	n.a.	12 (incl. 4 inoperative)
Togo	6	200,000	162,000	1	4 (incl. 2 inoperative)

Source: Sahel and West Africa Club/OECD (2006)

(Source: OECD. "Benin". African Economic Outlook. 2008)

Although Benin leads its neighbors in terms of cotton factors and production, structural internal obstacles bar the nation from receiving the economic rewards of this production. There are 325 000 cotton producers whose activities provide a means of living for approximately 2 million people.[145] Cotton represents 80 per cent of the country's export earnings and forms 12 per cent of GDP.[146] The organization of this sector has undergone vast changes over the last

[143] OECD, "Benin". (Report for African Economic Outlook, 2008).
[144] OECD, "Benin"
[145] OECD, "Benin"
[146] OECD, "Benin"

fifteen years. Now in the hands of the private sector, the cotton sector is managed by the Cotton Inter-professional Association (Association Interprofessionnelle de Coton – AIC) that groups together all the categories of professionals (producers, cotton ginners, distributors of produce) and the State.[147]

These reforms however were new and undermined by individual players within the industry and government officials, who have yet to establish a structure for privatized industries. The authorities' often prevent the implementation of long-term strategies for cotton, and for agriculture as a whole, by acting as mercenaries. It also comes up against land problems, including rural tracks that are inadequate for opening up producer regions, and the lack of small-scale conversion plants that could respond to Nigerian demand. The most recent issue to stifle the growth of the country's cotton industry was the government takeover from the AIC in 2012, previously co-led by cotton tycoon Patrice Talon in 2009.[148] Under AIC's management, seed cotton production was down at 173,000 tonnes during the 2011/12 season, three seasons after the state took over output had rebounded to 393,000 tonnes.[149] Current president's Talon's decision to return the industry into the hands of AIC now has farmers suggesting to the government that they ought to consider another model, zoning. A zoning system would organize farmers' producer associations' zones and enter into an exclusive relationship with particular ginners, a model that exists in Burkina Faso and is viewed as a success.[150]

[147] OECD, "Benin"
[148] Allegresse Sasse, "Benin Cotton Sector Wary as Government Hands Back Control". *Reuters,* May 17, 2016.
[149] Sasse, "Benin cotton sector"
[150] Sasse, "Benin cotton sector"

5.3 Guinea

In the most likely least likely model presented in the beginning of this chapter, Guinea is as a resource rich state with weak governance making it more likely for the state to experience instability and economic stagnation.

State Development of Guinea

During its first three decades of independence, Guinea developed into a militantly socialist state, which merged the functions and membership of the Parti Démocratique de Guinée (PDG) with the various institutions of government, including the public state bureaucracy. This unified party-state had nearly complete control over the country's economic and political life. Guinea expelled the US Peace Corps in 1966 because of alleged involvement in a plot to overthrow President Touré. Under pressure locally and abroad, Guinea embarked on a transition to multiparty democracy, albeit with considerable reluctance from the military-dominated government. It legalized parties in April 1992, but did not really allow them to function freely. The clashes over the elections fuels increasingly violent political demonstrations, with supporters sometimes mobilized along ethnic lines.[151] In 2013 roughly 32 people have been killed in clashes between political opponents or with the security forces since the start of the year.[152] Guinea's democratic transition and consolidation will only be successful if the government is able to deliver a 'democratic dividend' to the majority of the population.[153]

In contemporary Guinea, the lack of state strength lies in the state's lack of control over force, ineffective power to govern, inadequate administrative capacity and an unenforced rule of

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[151] Manuel Manrique Gil," The Democratic Transition in Guinea Reaches a Critical Point". (Policy Briefing. European Union: Brussels, 2013).
[152] Gil," The Democratic Transition"
[153] Gil," The Democratic Transition"

law. The state of Guinea has not been able to achieve a nationwide monopoly on the use of force. There are nationwide patterns of local grievances erupting sporadically violence against other social group and social agents. The armed forces remain one of the most important veto actor, due to its history of numerous (attempted) military coups and decades of military rule.[154] In addition the armies, non-state actors such as local gangs threaten the state's monopoly on power. The gangs' power in some areas has grown so large, that they have caused the retreat of the government from large parts of country for extended periods of time.[155]

The lack of power held by the state has bleed into ineffectiveness of state agents outside the capital. The state's administrative capacity is severely compromised by unchecked corrupted, inefficiency, and a lack of equipment and operating budgets.[156] In many areas, including land tenure, policing, environmental protection or tax collection, state structures exist mostly in name only. The rule of law, which enforces separation of powers is another aspect of state strength that is undermined. Judicial independence is still considered weak, the autonomy of the Guinean judiciary has been deeply compromised by executive interference and the perception of corruption. This has led to only 20.5% of Guineans expressing confidence in the judicial system, and 18.1% in the Supreme Court.[157]

Guinea Economic Summary

Guinea's economy is largely dependent on mineral exports which account for 15 % of GDP and over 90 % of exports. The country has the world's largest bauxite (aluminum) reserves, as well as important deposits of iron ore, gold and diamonds. The state is heavily dependent on

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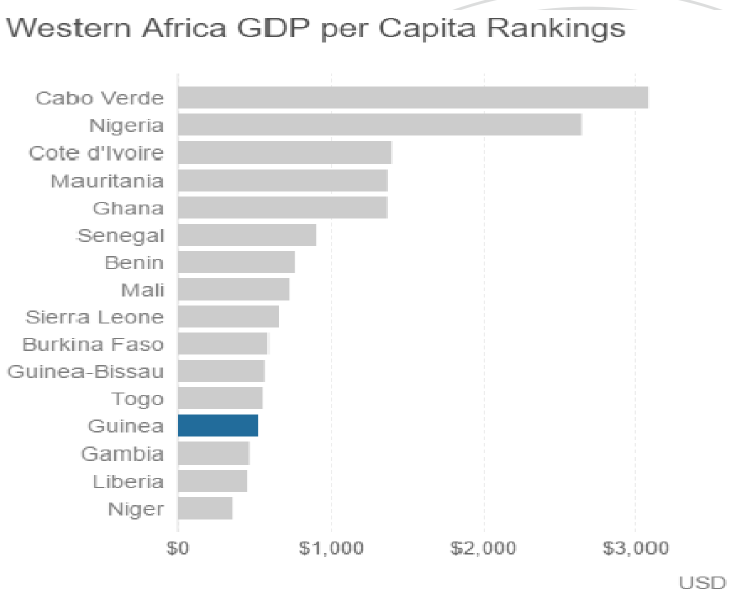
[154] Bertelsmann Stiftung's Transformation Index. "Guinea Country Report". Gütersloh: Bertelsmann Stiftung, 2016.
[155] Bertelsmann Stiftung's Transformation Index,"Guinea"
[156] Bertelsmann Stiftung's Transformation Index, "Guinea"
[157] Bertelsmann Stiftung's Transformation Index, "Guinea"

mining, with the mining sector accounting for 26% of the country's GDP[158]. There are extensive reserves of uranium, limestone, nickel, titanium, graphite, precious stones, cobalt, zinc discovered in several sites of the national territory.[159] Much of Guinea's economic development and progress depends on the advancement of the country's political stability. Among its neighbors, Guinea has one of the lowest GDPs per Capita despite the economic potential of its mining industry.

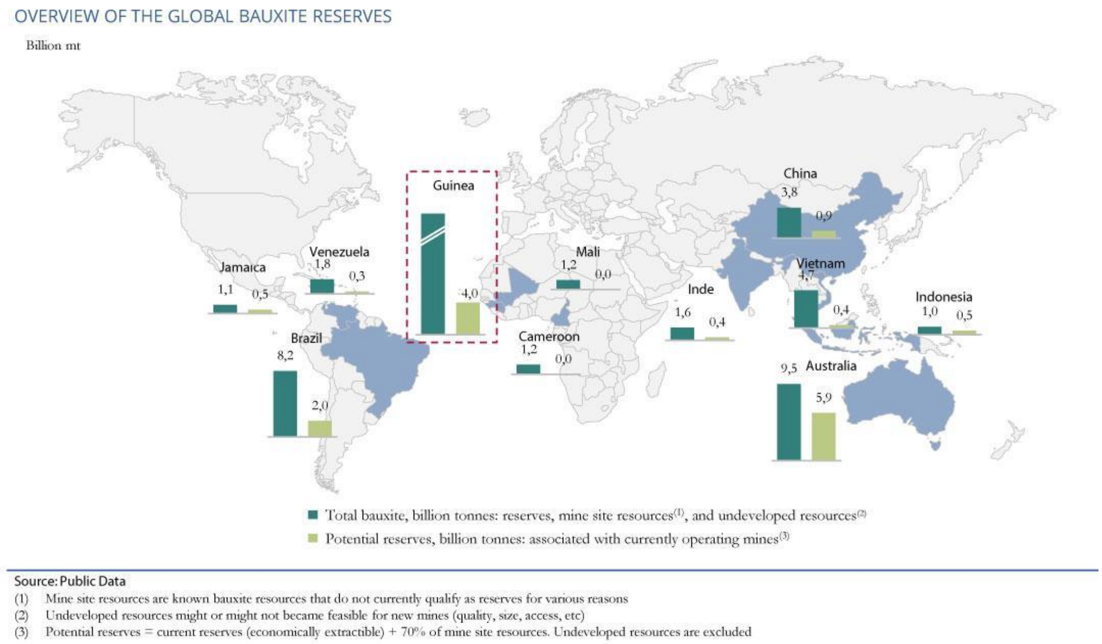


(*Source: Google images*)

The prosperity of Guinea's economic development is closely linked to the state's weakness. Following serious outbreaks of violence against civilians in 2009, the Guinean Government was suspended from most international bodies, and Official Development Assistance (ODA), including Aid for Trade, almost entirely came to a halt.[160] In this political environment, economic growth remained below 3 per cent on average over the period 2005-2010, while

[158] WTO, "Guinea". Trade Policy Review.
[159] Republic of Guinea, "Guinea is Back and Ready for Business". *All Africa*, 2013.
[160] WTO, "Guinea"

poverty increased. During the period as a whole, exports only rose by 20 per cent, reaching US$1.9 billion, while imports increased four times as fast, amounting to US$3.7 billion.[161]



(Source: Google images)

Once the nation is able to secure stability, development guided plans can be made to direct the potential prosperity of mining in the direction of economic development. Though Guinea has been mining bauxite since independence, it has lacked the political stability to secure the benefits of this industry The government wishes to privatize many state owned enterprises, due to its political instability the state lacks investors.[162]The tides appear to be slowly changing. Newly implemented Reform of Defense Forces and Security and the prospects for strengthening national political consensus are now factors that allow the establishment of a peaceful climate conducive to the exploitation of the country's assets.[163]

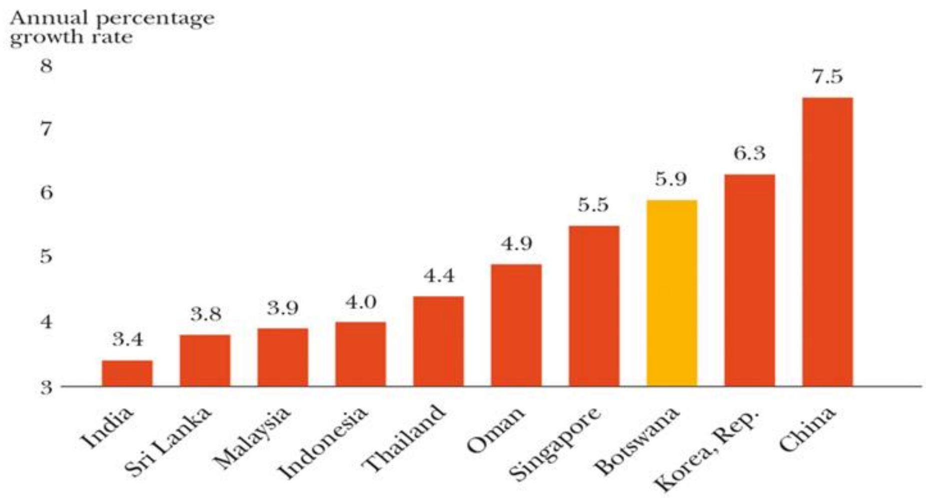
[161] WTO, "Guinea"
[162] WTO, "Guinea"
[163] Republic of Guinea, "Guinea is Back"

The following section provides an in-depth exploration of Botswana. Ranked as a resource rich and strong state, I assess Botswana's colonial past, democratic transition, state structure and the development of its mining industry in order to establish how these various elements of the state have contributed to the country's economic development.

5.4 Botswana

Botswana is hailed as one of the few resource rich, well governed strong states on the continent of Africa, and labeled as one of the most stable countries in Africa.[164] Since its independence in 1966 Botswana has maintained a successful multiparty democracy. It is noted as being relatively free of corruption with a good human rights record. In 2014 gay rights group received legal representation. Botswana's position as a successful African nation stems from its ability to escape the resource curse that plagues many resource rich countries in Sub Saharan Africa. Botswana was able to avoid the Dutch Disease and use its prosperous diamond mining industry to propel the nation into upper-middle income status. Botswana remains the world's largest producer of diamonds, averaging 5% per annum over the past decade, resulting in the fastest economic growth in the world.

[164] BBC, "Botswana Country Profile". *BBC News*, 2017.



Source: The World Bank (2015)
Note: Only countries with a full data set from 1966 to 2014 are included, except for Oman which is missing the latest 2014 figure.

(Source: *Go Botswana. "Economy". Botswana Investment and Trade Centre.)*

Botswana's success is not simply limited to its economic performance, but more fundamentally in the nation's ability to adapt. This adaptation is shown in the successful campaign the nation waged against HIV-AIDS infection. Botswana once held the highest rate of HIV-AIDS infection in the world, but as of 2014 rates have been reduced to 25% prevalence amongst the 14-25 demographic.[165] Botswana is one of the leading examples of an emerging modern African country, where issues are neither rooted exclusively in traditions or modernity. Botswana's political stability can be attributed to a strong civil culture and trust in the government. The Botswana government established respect for property rights and the rule of law in its transition into a republic. Although Botswana currently operates as a single party system led by Botswana Democratic Party, which at times raises questions about the fairness of its democracy and elections, it has maintained a high degree of transparency. A level of transparency was reinforced by continuing the Tswana tribal tradition of consultation. These

[165] BBC, "Botswana Country Profile"

consultative institutions, known as kgotla, created a degree of trust in the government—the sense that government exists to serve the people and promote development and is not the instrument of one group or individuals for the purpose of getting hold of the wealth.[166] In unison with this traditional governance, Botswana primarily operates under as Westminster Parliamentary system. The country has managed to preserve some of the important features of tribal law while, at the same time, incorporating important aspects of the British common law.

Why Colonization Matters

Much of the trajectory that signifies Sub-Saharan African countries' success is based upon their colonial past. The success of many modern African states has been attributed to the conditions they've experiences during colonization. As a result, former French and British colonies are often compared, with former British colonies faring as the more successful modern state. British colonies were characterized by their "indirect rule", which gave space to indigenous rulers to adapt to the institutional changes brought by the British. British rule in Northern Nigeria, became the model for indirect rule. The British believed that it was their task to conserve what was good in indigenous institutions and assist them to develop on their own lines. The relation between the British political officer and the chief was in general that of an adviser who only in extreme circumstances interfered with the chief and the native authority under him. In circumstances where chiefs governed small political units, and in particular where their traditional executive authority was questionable, the political officer found himself interfering in native authority affairs more frequently than ideally he should.[167] Another vibrant example of

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[166] Michael Lewin, "Botswana's Success: Good Governance, Good Policies, and Good Luck". *The World Bank*, 2011

[167] Michael Crowder, "Indirect Rule: French and British Style". *Africa: Journal of the International African Institute* 34, 3 (1964): 197-205.

differences in colonial rule comes from Cameroon, a former colony controlled by Britain in the west and France in the east.

Modern scholars have attributed the greater vitality of local political institutions in Western Cameroon to the effect of indirect rule. Scholars argue that traditional authorities left in place under British rule had the capacity to rally the inhabitants for local development, leading to greater community-level participation. In French Cameroon, however, scholars have argued that colonial era assimilative policies led to fewer and less active local associations.[168] The greatest underlying factor that predicts a country's success post-colonization stems from how easily the members of the nation were able to rebuild politically and socially. In most cases introduced institutions are more responsive to the wishes of ordinary people, in part because of their congruence with traditional political institutions. Not only were the British marginally more respectful of traditional political arrangements, but they also allowed both traditional and non-traditional leaders a greater degree of autonomy than the French did, enabling them to develop deeper relationships with their communities and setting in place a higher level of social expectation with respect to state obligations.[169]

By contrast, the presence of forced labor on the French side, only exacerbated this difference by associating local level leaders with the enforcement of a highly unpopular policy and giving them a potent area for the exercise of unconstrained individual power. This level of divide and rule greatly fragmented the indigenous society, making it difficult to form political and social norms that aide in the development and maintenance of public institutions due to the

[168] Alexander Lee and Kenneth A. Schultz, "Comparing British and French Colonial Legacies: A Discontinuity Analysis of Cameroon". *Quarterly Journal of Political Science* 7, 4 (2012):365-410.
[169] Lee and Schultz, "Comparing British and French Colonial Legacies"

lack of shared community and identification with the modern state system. In the case of Britain's advisory role, if local indigenous communities are invited into the decision making process of building a more modern state one would find that investment in growth promoting public goods would be increased, in addition stronger local level institutions may also reduce the ability of officials to expropriate private property or misappropriate public funds: the ‘‘grabbing hand’’ of the state is constrained the threat of social or political sanctions.[170] One of the most successful examples of such a case lies not in Nigeria or Cameroon but in Botswana. As a former British colony under "benign neglect", Botswana's own democratic transition highlights the importance of congruence between western political institutions, educated elites and indigenous ruling systems.

5.5 Democratic Transition in Botswana

Botswana's transition began in September of 1966 when 'Bechuanaland' was transformed into the Republic of Botswana. Before independence, Botswana was a British protectorate, meaning that the colonial power having been "invited" in. It is argued that because Botswana was not colonized for economic or strategic advantage, the colonial rulers, did not impose the extractive-type regime often found in other sparsely populated areas. Leaving the independent regime that evolved after independence one that respected the law and property and was dedicated to development.[171] Prior to colonization, Kgotlas, a concept which can be equated to town hall meetings gave community members opportunities to view their concerns and gave a platform for healthy debate and dissent. "Botswana built a working democracy on an aboriginal

[170] Lee and Schultz, "Comparing British and French Colonial Legacies"

[171] Godsglory O Ifezue, "Understanding Chieftainship in Botswana: The Status and Powers of Chiefs in Present Day Botswana". *Journal of African Law*, 59, 2 (2015), 271–293.

tradition of local gatherings . . . The kgotlas allowed for an open dialogue between Tswana citizens and their government".[172] The road to democracy for Botswana was aided by the strong and democratic presence of chiefdom.

Unlike many democratic transitions on the continent which are derailed by successions and ethnic clashes, Botswana showcases an incident where traditional 'tribalism' acts as an informant of the complex nature of African democracy. The abolition of the colonial system of indirect rule left in flux the role of the upper echelons of chiefs and their relations with the new African state. Faced with the challenge of finding a suitable and acceptable place for chiefs in the modern political set-up, the new independent Botswana chose to integrate chiefs into the central governance system.[173] Due to Great Britain's hands off approach in Botswana, power on the ground was to be leveraged between traditional indigenous leaders and emerging elites. Given this space of negotiation, elites acquired a sense power filled with balance and purpose. They were to be leaders of the collective state, rather than factions fighting for dominance of the emerging state. Two related factors have made Botswana's fates possible: conscious and disciplined political leadership and a professionally autonomous and accountable public service.

The leaders of the Botswana elite were conscious of the necessity of building public institutions that ran on a professional basis and which were relatively autonomous from particularistic political interventions, both internally and externally. With this goal in mind, the late vice-president stated

[172] Scott Beaulier, "Explaining Botswana's Success: The Critical Role of Post-Colonial Policy". (Working Paper 41 presented at George Mason University, 2003).
[173] Ifezue, "Understanding Chieftainship in Botswana"

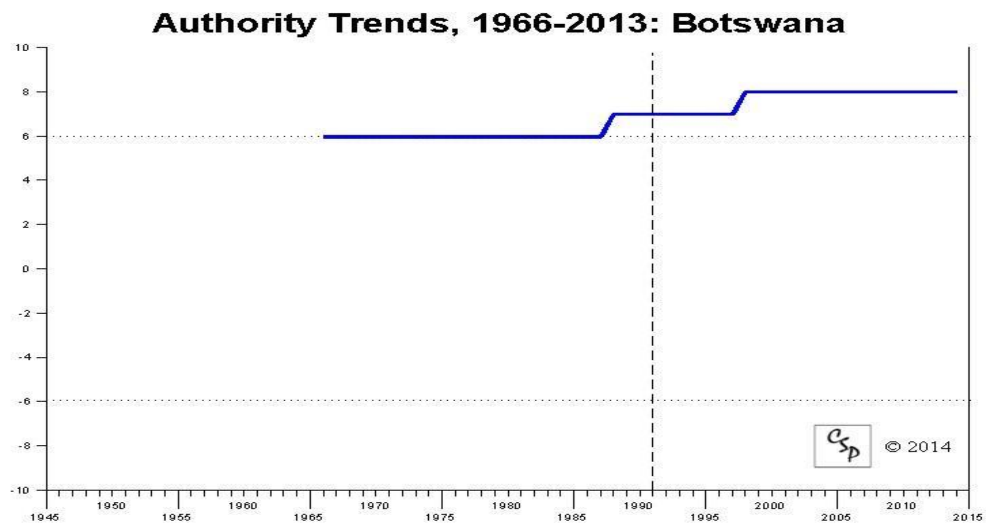
"A purposeful government that acquires the expertise to deal with foreign companies on its own terms need not have a fear of domination by foreign companies, however large they may be. The important word is purposeful and I believe our government has been able to put together strong negotiating teams, has backed them up with well-worked out negotiating mandates, and has then overseen the implementation of our major agreements with detailed care as well".[174]

With the absence of British direct control and violent intervention, Botswanan elites were given the space and practice to coordinate a sufficient republic. Botswana's colonial history deviates from most nations on the African continent, who faced challenges stemming from violent colonial rule, improper and inadequate transfer of power to succession that blocked a peaceful transition into an independent democracy.

The 'benign neglect' approach that defined The British's rule over Botswana, formerly known as Bechuanaland laid the groundwork for Botswana's effective transition into a democracy. Bechuanaland was a protectorate under British rule, a means to which Britain laid a formal claim

[174] Abdi Ismail Samatar, "Leadership and Ethnicity in the Making of African State Models: Botswana versus Somalia". *Third World Quarterly* 18, 4 (1997) : 687-708.

on the southern states of Africa, against German and Boer interest.



(Source: Polity IV. "Authority Trends: Botswana. Systematic Peace.org. 2014)

The British armed Botswanans to protect against the Germans to the west and the Boers to the south, but beyond this defense spending, the British did not engage in any kind of nation-building projects in colonial Bechuanaland.[175] Protectorate status meant that Bechuanaland was merely a colony in name, Britain did not take many resources from Bechuanaland, and they did not leave much in the way of social and physical infrastructure. 75% of British spending on the protectorate went to "administrative expenses" and another large portion was spent on upgrading tribal militants. The benign neglect of Botswana resulted in an uninterrupted progression of Botswana's democracy that laid the groundwork for future political stability and management of resource wealth.

In laying this foundation, the government was intentional in bridging the gap between traditional Botswanan leadership, known as chieftainship, and a more modern democracy. The

[175] Beaulier, "Explaining Botswana's Success"

first step in the revolution with respect to chieftainship was the Chieftainship Law of 1965, this diluted the chiefs' powers and some of their authority was taken over by district councils. The chief's authority was restricted to lesser and somewhat peripheral issues such as determining membership of a tribe, arranging for tribal ceremonies and helping to report crimes committed in a tribal territory. In replace of the chief's central role, the act further empowered the high commissioner (after independence, the president), after a judicial commission had considered any complaints received from tribesmen, to remove a chief and appoint his successor. Given the existence of a judicial commission, room existed to challenge these new provisions and the response to these challenges came in the form of the Chieftainship Amendment Act of 1970. The new act introduced more stringent controls. This act empowered the president to remove a chief without waiting for complaints from his tribe and furthermore without reference to a judicial commission.

The reality of these amendments resulted in practice chiefs being selected from the tribe's royal family, their appointment and removal from office were just as much within the government's discretion as those of the rest of the civil service. However another appeal challenged the status quo of modern democratic Botswana and Chieftainship and resulted in the introduction of the Chieftainship Act of 1987. The new act transferred the president's power to the minister of local government, lands and housing, additionally the minister should recognize a chief and could not remove a chief without a complaint from the tribe or reasonable suspicion on the part of the minister that the chief was abusing his powers.[176] Botswana's ability to incorporate its traditional methods of governance into a modern democracy has been

[176] Ifezue, "Understanding Chieftainship in Botswana"

instrumental in the country's ability to lead a stable modern democratic African state, a state that always prioritized national development above all else.

Tribalism is often used to explain ethnic conflicts that impede democracy and democratic leadership. For Botswana, such issues of tribalism are solved by ethnic homogeneity that has enabled much of the political stability that characterizes the nation. The Tswana people, who are comprised of several subgroups, constitute a significant majority at 79 percent of the population. They are not only a significant part of the country ethnically but have maintained historic power in the country. In the late 1800s, the group began to take land and to dominate the political process through the chieftainship system.[177] The political dominance of the Tswana group has not always come about organically, the government has engineered some of its dominance through language. The Tswana descendants speak Setswana, creating a near-universal native language spoken by 78 percent of the national population, and the Tswana have simply marginalized existing minorities to the point that minorities have little chance of impacting the Tswana's dominance in the political sphere.

These minority groups, which include thirty-eight other ethnic groups, struggle to gain official recognition from the government. So while the constitution fails to recognize the non-Tswana tribes, the government only permits the use of Setswana and English in schools and in government, which affects linguistic minorities' access to social services.[178] Botswana's lack of internal exploitation can be explained by the strict and arguable discriminatory control of ethnic groups. The Tswana group's singular rule of the Botswana Democratic Party has enabled the

[177] Amelia Cook and Jeremy Sarkin, "Is Botswana the Miracle of Africa? Democracy, the Rule of Law, and Human Rights versus Economic Development". *Transnational Law & Contemporary Problems* 19, 453 (2010): 458-488.
[178]Cook and Sarkin, "Is Botswana the Miracle of Africa"

government to control both political and economic matters without disruption and corruption. This has been one of the most important factors that has helped the government in avoiding the dreaded natural resource curse.

5.6 Contextualizing Botswana's Development

Prior to the economic boom led by diamond mining, growth in Botswana was initially based on agriculture and heavily dependent on foreign aid. In 1975-76 mining represented 17.5 % of GDP. In 1988/9 mining had reached 53 % of GDP, replacing agriculture as the lead sector.[179] Although agriculture was no longer the lead sector in terms of GDP, more than half of the population still had employment/self-employment in the agricultural sector as a source of income.[180] Dependency on agriculture and foreign aid resulted in little development for the nation, Botswana's infrastructure was limited to 8kms of paved road, few productive assets and a mostly uneducated populace with only 22 university graduates. At that time, Botswana's per capita income was only about 80 USD and 90% of the populace depended on agriculture for their livelihood.[181] Effective decision making within the nation's institutions has well as administrative capacity allowed the state to propel itself into development.

Botswana Core Institutions

Botswana's strength as a state is not limited to the results of effective policy choices, but the systematic process the government underwent to develop driven policies and the institutions that worked to make the policies a reality. In order to support apt decision making, Botswanan

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[179] Maria Fibaek, "Botswana's Modern Economic History Since 1966". Department of Economics, University of Copenhagen, 2010.
[180] Fibaek, "Botswana's Modern Economic History"
[181] Gervase Maipose, "Policy and Institutional Dynamics of Sustained Development in Botswana". (Working Paper No 35 for the Commission on Growth and Development, 2008).

leadership had to first ensure the strength of its institutions in terms of checks and balance and administrative capacity. The state as an organization in which economic policy-making takes place, includes in Botswana the executive (i.e. the president and the cabinet), the legislature (the National Assembly) as a collective unit, the civil service, the political institutions and public administration at the district level, members of permanent advisory bodies, and appointed members of ad hoc committees on specific policy issues.[182] The five points presented briefly condense the structural context of Botswana's institutional and economic performance[183], one: Botswana is very rich in natural-resource wealth, two: it had unusual pre-colonial political institutions allowing commoners to make suggestions and criticize chiefs. The institutions therefore enabled an unusual degree of participation in the political process and placed restrictions on the power of elites, three: British colonial rule in Botswana was limited. This allowed the precolonial institutions to survive to the independence era, four: exploiting the comparative advantage of the nation after 1966 directly increased the incomes of the members of the elite, five: the political leadership of the BDP, and particularly of Seretse Khama, inherited the legitimacy of these institutions, and this gave it a broad political base.

Institutional Structure: The Executive and Legislative Strength

The structures of the nation are important in part for the context it provides as well as its role in shaping Botswana's institutions. I locate LEGCO as the naissance of Botswana's effective institutions. From 1961 to 1964 the nation worked with LEGCO, a constitutional arrangement established in 1961 that created a council of ten Africans, ten Europeans, one Asian,

[182] Andreas Danevad, "Development Planning and the Importance of Democratic Institutions in Botswana". *Chr. Michelsen Institute*. 1993.
[183] Daron Acemoglu, and Simon Johnson and James A. Robinson, "An African Success Story: Botswana". (Working Paper No. 01-37 for MIT Department of Economics, 2001).

and ten government officials which would act as the first body with power to pass legislation, and the executive council to develop a practice that involved civil service technical experts in direct discussions with cabinet ministers and other politicians.[184] The system was designed under the belief that politicians should understand the technical aspects of constraints on their choices, and experts should know directly of political leaders' concerns.[185]

In the parliamentary system adopted by Botswana in its independence, power relations between the executive and legislature is defined through the executive's dependency on the legislature. This dependency is shown through the degree to which politically appointed leaders are able to give direction to a large administrative apparatus acting in their name and how they give this direction[186]. The strength of the legislature is instead exhibited in the process of bill passing. In compliant legislatures bills are passed with greater ease while stronger legislatures hold greater space to spend time discussing bills and to make amendments. The constitutional constraints on the ability of the Botswana legislature to raise public spending, thus places the legislature in a weak position in this respect.[187]

Administrative Capacity

The administrative capacity of Botswana is a remnant of colonial institutions when the colonial administration in the early 1960s began the process of adopting a more explicit planning approach. The effective transitional process is located in the inclusion of African politicians into

[184] Stephen R. Lewis Jr, "Explaining Botswana's Success: The Importance of Culture". *Developing Cultures: Case Studies*. (New York: Routledge, 2006).
[185] Lewis Jr., "Explaining Botswana's Success"
[186] Danevad, "Development Planning"
[187] Danevad, "Development Planning"

both the decision-making and administrative matters. As a result of this previous experience three "principal" objectives came to the fore at independence:

(a) Priority was given to development planning, although primarily focused on resource allocation to the various sectors, and less on direct state involvement in productive activities. This emphasis was reflected institutionally, as planning departments were given a de facto strong position, more dominant than in many other African countries.

(b) It was explicitly pronounced that the emphasis on planning was not intended to lessen the importance of the private sector in the development efforts. On the contrary, the government was to assist the private sector in its contribution to the attainment of overall development goals.

(c) A major objective was to reduce the dependency, or diversify the sources, on external funding of the recurrent and development budgets.

The Ministry of Minerals, Energy and Water (MMEWA) represents a prime example of Botswana's administrative capacity. MMEWA role in the government is to handle Trans-national corporations in extractive industries. Its basic function lies in the coordination of development and operational activities in the energy, water and minerals sector. The ministry heads four departments, Geological Survey, Mines, Energy Affairs and Water Affairs, which are tasked with completing specific programs and projects surrounding the aforementioned sectors. In coordinating these projects, the Ministry headquarters provides leadership and policy directions to the departments and parastatals. Leadership from the Ministry comes in the form of crafting directing and coordinating the overall national policies on minerals, energy and water resources. Above this institution, lies the Minerals Policy Committee (MPC), which is comprised of relevant Permanent Secretaries and the Attorney General, who are assembled specifically provide overall policy guidance and lead mining negotiations.[188]

Political Institutions: The Kgotla

Institutions such as the Kgotla provide the fundamental constraints to political elites, ensuring general institutional quality. These restraints can be seen through the public consultation (Therisanyo), which is done at the Kgotla for local tribal people to voice opinions and concerns over projects conducted in their villages[189]. Consent from the people comes in the form public consultation, when consent is ignored by political elites, the kgotla provides an avenue for the people to restraint the elites. In 1992 locals were not involved on the plans of a water project in Southern Okavango, as a result of their exclusion and the potential environmental consequences, they responded by rejecting the project development at the kgotla meeting.[190]

The level of public involvement legitimized in the Kgotla made it possible for the system to be accountable to the citizenry[191]. The levels of constraint are not only in the direct of the people to the political elites, the political elites themselves through Kgotla are granted the opportunity to hold each other accountable. Through the spirit of "everyone has the right to say what he likes" (mmualebe o a bo a bua la gagwe), the Kgotla hosts regular consultation and exchange of views on major national issues between the government and leaders of various opposition parties[192].

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[188] Keith Jefferis, "The Role of TNCs in the Extractive Industry of Botswana". *Transnational Corporations* 18,1 (2009): 61-92.
[189] Piwane Constance Moumakwa, "The Botswana Kgotla System: A Mechanism for Traditional Conflict Resolution in Modern Botswana: Case Study of the Kanye Kgotla". (Thesis for the Arctic University of Norway, 2011).
[190] Moumakwa, "The Botswana Kgotla System"
[191] Moumakwa, "The Botswana Kgotla System"
[192] Moumakwa, "The Botswana Kgotla System"

Continuing from pre-colonial Botswanan society, and now as a part of the modern state, Kgotla's have embedded in Botswana decision making and institutions the rule of consultation and restraint.

Policy Making in Botswana

Botswana's development is directly tied to effective state management, which has manifested in an institutionalization of good policy choices. The centralization of policy-making allows much power to be concentrated in the executive. When the legislature is formally participating in decision-making it is likely unable to amend or reject proposals tabled by the executive. Legislators are not consulted until the final stage of defining or revising important aspects of the development strategy.[193] Botswana's trajectory to development and policy making process can be explained in terms of its policy choices, broken up into 3 phases beginning in the 1960s until the new millennium.

The first phase spans from 1960s until 1975, the first phase is more generally defined as a period of base creating where the government sought to establish what the economic base of Botswana would be. This period is marked by the independent government's decision to negotiate with chiefs for transfer of mineral rights as well as a change in currency from South African Rand to Botswana Currency.

The second policy phase which spans from 1975-1989, pushed towards the government negotiating for joint partnership with mining companies. Part of the negotiations involved management of enterprises to move to private partners. This phase in policy making was most defining for Botswana because it allowed the state to emerge as an instrument of society and a

[193] Danevad, "Development Planning"

conduit through which the vast financial resources, mainly from the mining sector and partly from foreign aid, were redistributed to create public goods and services and consolidating its pragmatic approach to development programs.[194]

The third and most current phase beginning in the end of the 80s marked a period of policy and economic transition. State-led development came to a halt in order to usher in the start of private sector-led development with an emphasis on economic diversification, export competitiveness, privatization options, and a comprehensive focus on poverty reduction/eradication within a framework of the National Vision 2016.[195]

Mines and Mineral Rights Acts 1977-1999

The Mines and Minerals Act of 1977 allowed the central government to legislate itself as the holder of mineral rights, where ownership was previously in the hands of the state, private farmers, and tribal authorities[196]. This policy decision established in early positive trajectory in Botswana both in terms of future development and decision making on the part of the government. Through a series of negotiations and the levying of a mineral rights tax that called for either rapid exploration or surrender of mineral rights, the government was able to gain ownership and avoid future inequalities between mineral-producing areas and non-mineral producing areas. The government was able to ensure a potentially important source of revenue and curb uneven growth within the country which would regress into ethnic, social, political tensions.[197]

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[194]Maipose, "Policy and Institutional Dynamics"
[195]Maipose, "Policy and Institutional Dynamics"
[196]Jefferis, "The Role of TNCs"
[197] Jefferis, "The Role of TNCs"

With full ownership and decision making power, the government to entered into long term partnerships with all major mining operations, one of which being a joint venture Debswana, between the government and DeBeers. Through its shares, required equity payment in exchange for low royalty rate, the government ensured their participation in the mining industry beyond revenue collection.[198] These partnerships enabled the government to appoint two directors to the main De Beers board among many others, whereby the government was able to gain access to high-level information regarding the operation of the global diamond industry. Board representation secured the government's policies were understood by the mining companies, and that the government had good appreciation at the early stages of any problems faced by mining companies.[199]

The law would later be revised in the Mines and Minerals Act of 1999 to incorporate changes designed to facilitate the issuing of exploration and mining licenses and to make Government participation in new developments more attractive to investor.[200] Botswana's general mining policy aims at maximizing the national economic benefit from development of mineral resources, this is to be achieved through, one, encouraging prospecting and new mine development. Two, negotiating mining agreements which maximize the net national economic benefits resulting from mine operations. Three, generating linkages with the rest of the economy and increasing local value added. Four, creating employment and training opportunities for Botswana. Five, all the mineral rights are vested in the Republic. The Mines and Minerals Act regulates mining activities in Botswana.[201] The second phase which comes in 1975-1989 saw

[198] Jefferis, "The Role of TNCs"
[199] Jefferis, "The Role of TNCs"
[200] Mbendi, "Mining in Botswana". *Mbendi Information Services*, October 10, 2016.
[201] Mbendi, "Mining in Botswana"

further transformation of the mining industry. On the heels of gaining mineral rights, the government of Botswana negotiates for joint partnership with mining companies. Per the agreements made, the management of enterprises is left to private partners, making this the start of Botswana's 'private-government smart partnership. Botswana was able to make such 'smart' decisions given the leveraging power it obtained in the midst of nationalization that was sweeping the region. Fearing that Botswana would nationalize the industry, mining companies were willing to not only offer partnership but also allow Botswana to increase its ownership from a reported 15-20% up to 50%.

Monetary Policy: Pula Currency 1975

.Prior to the Pula being issued in 1975, the government spent a year focusing on widespread publicity about the new currency and its effects on everyday lives. In addition to this publicity campaign, a macroeconomic planning unit was established in the Ministry of Finance and Development Planning (otherwise known as MFDP) as well as a working group between the Bank of Botswana and MFDP.[202]

Seminars were held for the Economic Committee of the Cabinet, including senior civil servants, and all-party parliamentary caucuses. The seminars covered the balance of payments, why foreign exchange reserves rise and fall, the effects of changes in the exchange rate between pula and other currencies. These seminars helped to normalize open discussions on the state of the political economy, by the mid-1980s it was normal to discuss exchange rates policy in

[202] Lewis Jr., "Explaining Botswana's Success"

parliament and even among the public. The principles of both consulting with and educating the electorate lie at the heart of the policy making process in Botswana.[203]

5.7 Development of the Diamond Industry in Botswana

For the state of Botswana, the discovery of diamond was the catalyst that propelled the nation to growth. In the government's eyes, the ultimate goal of natural resource was not wealth but development, even prior to official independence. The Botswana Democratic Party's pledge to nationalize mineral resources in the 1965 election campaign was an overt effort at nation building, despite not knowing the extent of mineral resources the country held (diamond in particular), and Seretse Khama, leader of the BDP as well as hereditary chief of the BamaNgwato, campaigned on a promise to use mineral resources for national development instead[204]. After independence, the government reached agreement on ownership of mineral resources with the tribal authorities. Although the largest diamond deposits were discovered in Khama's own district of Bamangwato, revenues were distributed evenly across the country, limiting the possibility of conflict.[205]

Promises were far from ensuring positive economic development. When dealing with the revenues from natural resources, the government put development on the frontline, setting forth practices that avoided the Dutch disease. They attracted investors by keeping mining taxes fixed at a 10% rate and voided additional tax revenues from the mining industry, which could eventually result in a greater burden on the emerging new foreign investment and stunt future growth. Additionally the government seldom altered the tax structure of the mining industry,

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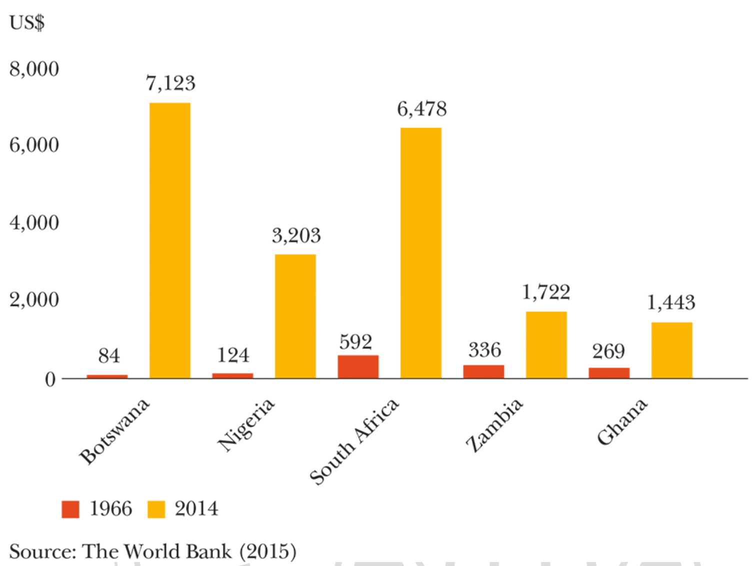
[203] Lewis Jr., "Explaining Botswana's Success"
[204] Amy R. Poteete, "Defining Political Community and Rights to Natural Resources in Botswana". *Development and Change* 40, 2 (2009): 281-305.
[205] Lewin, "Botswana's Success"

maintaining a level of stability in a volatile industry. Therefore mining companies could invest with a confidence they would be taxed and regulated at a relatively low and predictable rate.[206] Other policies focused specifically on directing natural resource revenues towards building institutions. Diamond mining accounted for a large portion of the value added to the economy from the mid-1970s to the mid-2000s[207], as illustrated by the chart below.



(Source: GDP Per capita 1966 and 2014; World Bank;DeBeer Group)

The fundamental principle of Botswana's approach for more than three decades has been that non-renewable resource revenues should only be used for investment or capital expenditures (defined as development expenditure and recurrent spending on education and health) and that recurrent spending must come from non-mineral revenues.[208] A separate Development Fund was created which could only fund projects approved in the country's National Development Plan (NDP). The NDP itself determines Botswana's spending priorities over a five-year cycle and

[206] Beaulier, "Explaining Botswana's Success"
[207] DeBeers, "The Contribution of Diamonds to Botswana's Development". DeBeer Group Report.
[208] Scott Pegg, "Is There a Dutch Disease in Botswana?" *Resources Policy* 35, 1 (2010): 14-19.

projects cannot get funded unless they are incorporated into the NDP. In order to get into the NDP, a project must be vetted by the Ministry of Finance and Development Planning (MFDP) which is responsible for coordinating all development activities and setting spending limits[209].In addition to the Development Fund, Botswana also created two other special funds to help manage its mineral revenues.

Recognizing that its diamond revenues would exceed its absorptive capacity, the government established a Public Debt Service Fund in 1972 which would enable it to save money rather than contribute to economic overheating by spending it. The government kept expenditure growth below the rate of revenue growth. To address the volatility of mineral revenues, Botswana established the Revenue Stabilization Fund in 1972 to accumulate reserves during booms that could later be used to cushion downturns. This meant that increases in diamond revenues did not necessarily lead to new spending while decreases in diamond revenues did not lead to sharp cutbacks. At the end of 2006, Botswana's current account surpluses had allowed the government to accumulate a significant stock of reserves, amounting to about 75% of GDP.[210] In terms of corruption, the government was able to avoid it by building good political foundations rather than investing in military spending. Increases in education and improvements in social infrastructure raised the returns to wealth creation by improving the human capital stock as well as expanding the size of the market.

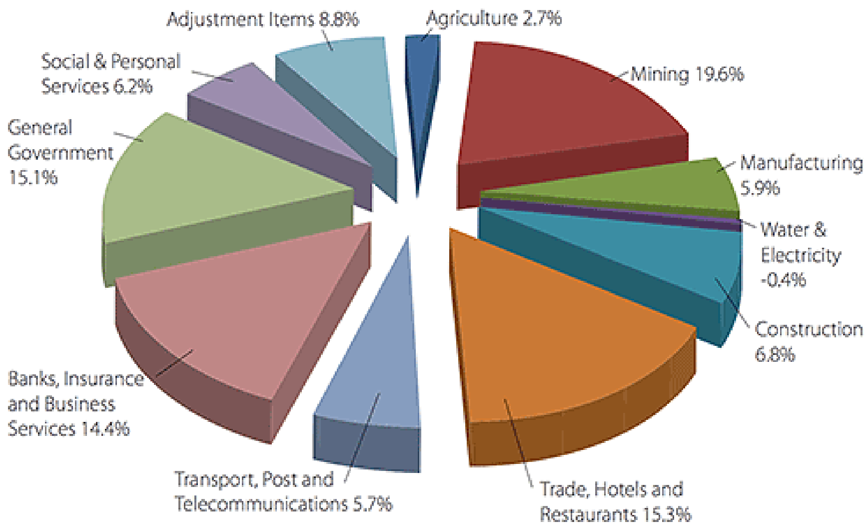
5.8 Economic Development

Botswana's economic development has been positively tied both its democratic development and the development of the diamond mining industry. Botswana has maintained

[209] Pegg, "Is There a Dutch Disease"
[210] Pegg, "Is There a Dutch Disease"

low rates of inflation, at least by sub-Saharan standards. Unlike other resource rich countries in sub Saharan Africa, Botswana has maintained economic growth for decades by tying its nation's development to investments in public goods, such as primary and secondary education and paved roads.

Gross Domestic Product by Type of Economic Activity (Current Prices) – 2012



Source: Statistics Botswana

(Source: *Go Botswana. "Economy". Botswana Investment and Trade Centre.)*

Capital expenditure on mines helped to kick-start other sectors, notably construction, financial services and transport. Growth in the economy increased revenue, allowing for further developmental investment, and lifted national wealth levels rapidly.[211] Since independence, the total length of paved roads in Botswana has increased from 50 to 60 km to 10,000 km.[212] Another crucial factor in the country's economic relative economic prosperity comes from attempts to diversify its industries.

[211] DeBeers, "The Contribution of Diamonds"

[212] Scott Beaulier and J.R. Subrick, "The Political Foundations of Development: The Case of Botswana". *Constitutional Political Economy* 17, 2 (2006): 103-115.

Though most of the country's wealth is based on diamond mining, it also receives revenue from beef exports and a growing tourism industry that revolves around Botswana's many game reserves, open landscape, and the biodiversity of its crown jewel, the Okavango Delta. The diversified economy has allowed the national to developed a resulting financial base that provides the government with resources to construct and maintain a solid infrastructure, including roads, telecommunication systems, hospitals, hotels, and schools. The presence of a well-maintained infrastructure, complemented by consistent political stability, has incentivized foreign investment, furthering economic progress.[213]

The nation's economic progress is expected to increase given the government's ability to think long term and save. Despite facing the inevitable risks of mineral dependence, the government has been working to meet the IMF's benchmark 20% for sustainability set by % of public investment (which is now measured at 10% for Botswana) by using accumulated savings to smooth expenditure over the business cycle, providing the economy with both short-run and long-run shock absorbers . The accumulated savings are comprised of Central bank profits and other income from accumulated assets that now make up to 30 % of government revenue, though most of it is still comprised of income from the accumulated saving of mineral revenues.[214] The government's skill in adaptation is securing the nation from the inevitable decline of the diamond mining industry and beginning slowly to transition the economy away from natural resource dependency. From its independence, the government of Botswana has shown strength in making decisions that are mindful of the complexity of traditional African leadership without sacrificing their centrality and losing sight of the nations need to development. In essence, Botswana has

[213] Cook, "Is Botswana the Miracle of Africa"
[214] Lewin, "Botswana's Success"

shown through political and economic transitions how resource dependency in a resource rich nation can be used effectively to drive development.

-CHAPTER SIX-

VI. International Coltan Trade: Mined Tantalum

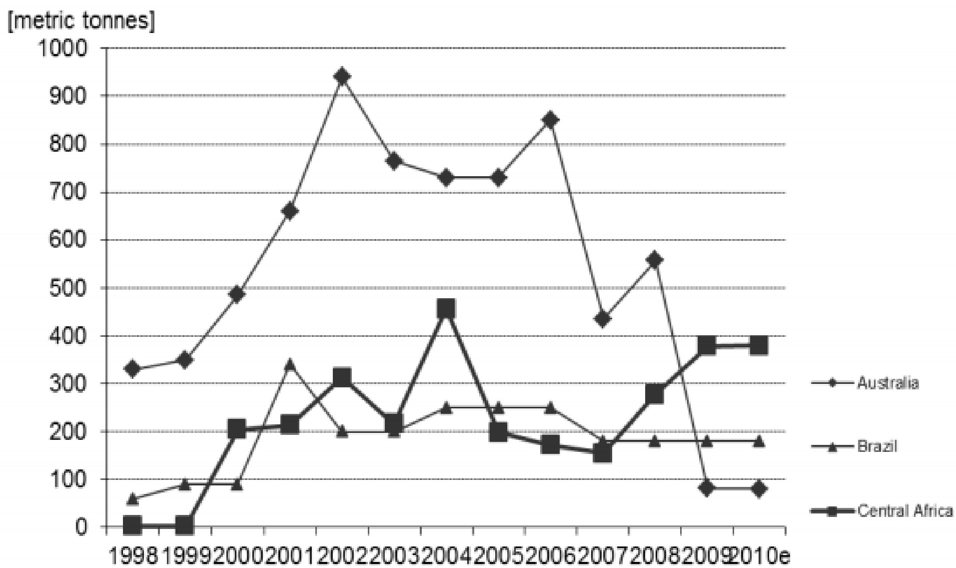
Internationally, coltan is known as formally as Tantalum. Tantalum minerals are comprised of tapiolite, wodginite, ixiolite, bismutotantalite, fermsite, stibiotantalite, simpsonite, microlite and minerals of the complex fergusonite, aeschynite and euxenite mineral groups. The global reserves of Tantalum were estimated to have been in the order of 110,000 t in 2011 and considered adequate to meet projected needs.[215] Tantalum produces range from tantalum oxide, powder, to Tantalum Carbide or TaC. Tantalum is also produced as a byproduct during tin smelting. The tantalum industry's material flow operates in four ways, one, a mining component that typically extracts ore and produces a concentrate, two, a processing segment that converts concentrate into an oxide or metal three, a parts manufacturing segment that uses the oxide or metal material to produce such components as capacitors or super alloys, for an end-product manufacturing sector that uses the parts, such as capacitors, in electronic devices, such as cellular telephones.[216] The industry is known to be traditionally secretive, lacking adequate tracking because tantalum materials are not openly traded. There is no official stock market or spot

[215] Billy Batware, "The Role of Multinational Corporations in the Democratic of Congo". EPU 2011
[216] Batware, "The Role of Multinational Corporations"

market where prices of Tantalum materials could be compared. Purchase contracts are kept confidential between buyer and seller.[217]

Australia has dominated the world market with over 60% of shares. However in recent years Australian production has changed. Australia's largest producer, Talison[218] suspended its production in late 2008, due to difficulties of financing necessary investments and market uncertainties during the financial crisis.

Figure 1: Tantalum, world mine production (unit: tantalum content, Ta_2O_5).



Sources: USGS (2011) and various other years of its tantalum report; data for 2010 preliminary.

In 2009 production values placed Australia in fourth place at 80t, behind Rwanda. Brazil was number one at 180t, second place was Mozambique at 110t, third place was Rwanda at 100t, fifth place Canada 25t, and other countries came in at 170t, including Burundi, DRC, Ethiopia, Somalia, Uganda, and Zimbabwe. With recent shifts in production levels, data reveals that

[217] Batware, "The Role of Multinational Corporations"
[218] Formerly known as Sons of Gwalia

Central Africa has become the major supplier for coltan / tantalum on world markets in 2009/2010. The rise of central African Tantalum on the world market, introduces unreliable data. The total amount of coltan produced in the DRC and traded internationally is limited by data availability, comparability and reliability as well as by difficulties of tracing illegal trade in Eastern Congo. Thus, tracing any illicit trade and estimating the real amount of coltan produced in and exported by DRC remains a central challenge.

6.1 International Community as Stakeholders

In terms of international trade, a wide range of actors play a vital role in sustaining coltan trade both legal and illegitimate trade, multinational corporations, international organizations western nations, eastern nations, African nations. Stakeholders invested in existence of coltan trade encompasses large parts of the globe. The following section will examine the role played by each actor, beginning first with contextualizing the international element of DRC mined coltan.

Globalization of DRC Coltan Trade

Internationally the appraisal the DRC, regardless of its government type, has depended primarily on its extractable value. Former president Laurent Desire Kabila's relationship with neighboring African countries, particularly Rwanda has had harsh implications for Congo's stability and coltan mining industry. Kabila's presidency began to receive harsh criticism once international investors sensed a shift in his economic policies and foreign engagement. Prior to Kabila's self-inflicted international alienation in July of 1998 when he ordered the removal of Rwandan and foreign troops from Congo, the AFDL and foreign companies amassed massive gained in the midst of Congo fragile transitioning democracy. Executives formed open alliances with the AFDL.[219] Jean Ramon Boulle, co-founder of American Mineral Fields, who landed a $1 billion mining deal with AFDL in April of 1997, also allowed the AFDL rebels use of his private Lear jet.[220] Bechtel Corporation went further with their investments in the state, and commissioned and paid for NASA satellite studies on Congo as well as for infrared maps of its mineral potential, free of charge to the de facto AFDL government, as the basis for a seven year economic strategy.[221]

This survey gave the Kabila administration access to some of the most complete mineralogical and geographical data of the former Zaire ever assembled. Information that was worth a fortune to any prospective mining or oil firm. Bechtel satellite intelligence also assisted Kabila's military strategy. A top Bechtel executive began traveling the country with the Congolese leader to help him deal with ethnic uprisings.[222]

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[219] Montague, "Stolen Goods"
[220] Montague, "Stolen Goods"
[221] Montague, "Stolen Goods"
[222] Montague, "Stolen Goods"

Table 2 Consumers of DRC-sourced coltan in 2000, as share of total global coltan footprint

Country	*Percentage of total coltan consumed in 2000*
Germany	18
USA	14
China	14
UK	7
Japan	6
France	4
Italy	4
Canada	3
Spain	2
Netherlands	2
All others	26

These corporate ventures ensured what African Business described as, "the total reshaping of Zaire's mining sector[223]. The vulnerability of Kabila's pseudo democracy in Congo left the mining fields open for unchecked exploitation. The AFDL's unregulated takeover of mineral rich areas the Zairian constitution, which stated that the soil and subsoil belong to the state and that prospecting, exploration and exploitation required permits from the Ministry of Mines and Energy.[224]

Multinational Corporations

Traditionally multinational corporations have played an important role in maintaining much of the conflict tied to the illicit trade of coltan in DRC. Supporting conflict has resulted in violation of international standards of good corporate behavior. In 2001, 85 countries were charged with violating the standards of the guidelines for the ethical behavior of multinationals

[223] Montague, "Stolen Goods"
[224] Montague, "Stolen Goods"

established by the Organization for Economic Cooperation and Development (OECD). [225] The exploitation of DRC's natural resources in some instances has been guided by companies created to manage illegal activities. The Illegal exploitation of the mineral and forest resources of the DRC occurs in two phases, mass scale looting and the systematic and systemic exploitation of natural resources.[226] While some of these corporations are new, others have existed in the DRC/Central Africa for decades and have shifted interest to natural resources In order to pursue the obvious financial windfalls involved in the exploitation of a country.[227]

International organizations like the UN have used their influence to curb the exploitation done by multinational corporations. Beginning in 2001, an expert panel of the United Nations Security Council has published four reports on the illegal exploitation of natural resources in the DRC. A third report conducted in 2002; explicitly states that the private sector must accept some responsibility for contributing to this resource-based conflict through the purchase of illegally mined materials. [228] The U.N. has condemned multinational corporations and countries involved in the conflict and called for sanctions against countries and individuals involved in the illegal activities, preventive measures to avoid a recurrence of the current situation.[229] These measures included reparations to the victims of the illegal exploitation of natural resources, design of a framework for reconstruction, improvement of international mechanisms and regulations governing some natural resources and security issues.[230]

DRC Coltan and State Actors

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[225] Batware, "The Role of Multinational Corporations"
[226] UN report 2001:4
[227] Batware, "The Role of Multinational Corporations"
[228] Batware, "The Role of Multinational Corporations"
[229] Batware, "The Role of Multinational Corporations"
[230] Batware, "The Role of Multinational Corporations"

The foreign states connected to DRC coltan can be divided into three categories, neighboring African countries, European countries, and China. Neighboring African countries like Rwanda and Uganda, given their geographical location, have the greatest and most direct involvement in DRC's coltan trade. Reports by the UN Security Council claim that coltan mined in the DRC in 2000 was exported both directly to refiners and transported across the porous borders through neighboring Rwanda and Uganda.[231] Estimates conclude that half of Rwanda's coltan exports in 2000 were actually mined in the DRC.[232] Rwanda's particular role in the trade of DRC mined coltan emerges in the transportation stage. Western and Eastern countries enter in the trade as refiners. The United States, Germany, and China are home to major refiners like Kemet, AB Singher, and Nixon.[233] These companies were implicated in the UN reports as buyers of smuggled coltan. Moran et al have also found a connection between western countries and west Asian nations, stating that in addition to assuming coltan was sent to these countries, it was also assumed that the processing plant in Kazakhstan was a major buyer of DRC coltan in 2000, buying US$5.5 million of the US$33.9 exported from DRC that year.[234] The following section will devolve more into the global paths that connect Rwandan transportation to German refineries. The global paths are also distinguished by the uses of embodied coltan either used to produce basic tools, electronics, and or medical technology. The following section highlights 3 paths of electronic use and 1 path for medical technology.

6.2 Global Coltan Paths: Western Eastern Connection

[231] Daniel Moran et al., "Global Supply Chains of Coltan". *Journal of Industrial Ecology*, 19 (2015): 357-365.
[232] Moran et al., "Global Supply Chains"
[233] Moran et al., "Global Supply Chains"
[234] Moran et al., "Global Supply Chains"

Moran et al's use of SPA Using SPA identifies important international supply routes through which coltan ows from the DRC coltan mining sector out to nal consumers

Table 3 Top ten supply flows of coltan from the DRC to final consumers, and estimated magnitudes in terms of value ($US million)

Path value (m USD)	*Path*
$2.0	DRC → Germany processing → Final consumption in Germany of communication and electronic equipment products
$1.7	DRC → Rwanda → Germany processing → Final consumption in Germany of communication and electronic equipment products
$1.0	DRC → Germany processing → Final consumption in Germany of office equipment products
$0.9	DRC → Rwanda → USA processing → Final consumption in USA of electronic capacitor, resistor, coil, transformer, and other inductor manufacturing products
$0.8	DRC → Rwanda → Germany processing → Final consumption in Germany of office equipment products
$0.5	DRC → USA processing → Final consumption in USA of electronic capacitor, resistor, coil, transformer, and other inductor manufacturing products
$0.4	DRC → Kazakhstan processing → Final consumption in China of electronic computer products
$0.4	DRC → Rwanda → Kazakhstan processing → Final consumption in China of electronic computer products
$0.3	DRC → Kazakhstan Processing → Final consumption in China of communication equipment products
$0.3	DRC → Rwanda → Kazakhstan processing → Final consumption in China of communication equipment products

Note: A path value of $2 million indicates that $2 million worth of embodied Coltan from DRC through the specified path to reach the specified final demand sector.
DRC = Democratic Republic of Congo; m USD = million U.S. dollars.

Many of these go through the Rwandan transportation sector. Further models conducted by Moran et al show that Germany is a disproportionately heavy user of embodied coltan. German and U.S. plants were found to be primary buyers of implicated coltan. [235]

Although Kazakhstan was also a buyer, nearly all consumption of electronics and implicated products in Kazakhstan is much lower and usually exported shifts Kazakhstan's position as a middleman in the illicit trade of coltan rather than an end user.[236] Germany is likely to be the greater end user because German electronics have higher loads of embodied coltan due to processing ends using coltan. While it is difficult to singularize the multiple paths taken in the

[235]Moran et al., "Global Supply Chains"
[236]Moran et al., "Global Supply Chains"

trade of DRC coltan, Moran et al isolate top paths and reduce the reality of paths are shown in that would be mutually exclusive and collectively exhaustive.

Electronic Path of Embodied Coltan

1. DRC → Rwanda → USA processing →USA → South Korea end user
2. DRC → Rwanda →USA processing → USA → Mexico end user
3. DRC → Rwanda → USA processing → USA end user

The first of the three representative path of electronic accessories was 0.22% of coltan mined in 200 and was worth US$75,000. The end recipient of this path is in the radio, television, and communications equipment sector in Korea.[237] They derive from USA electronic capacitor, resistor, coil, transformer, and other inductor manufacturing products. Korean consumers as end user purchased coltan embodied game consoles and mobile phones. The second and more obscure paths traced can be illustrated by Mexico end users of coltan embodied transport equipment. This path worth US$57,000 has its final demand in Mexico in the manufacture of transport equipment sector into vehicle components for vehicles bought by Mexican consumers.[238] The embodied coltan could be used in cutting tools used in factories, in corrosion-resistant bolts in the vehicles, or directly in the vehicle electronics, including in the airbag system, ignition system, motor control module, global positioning system, or antilock brake system.[239] The third path, pushed through US processors, concludes with US end users. This path generates the least amount of money with only US$12,000 worth of coltan implicated. The US processing results in USA electronic capacitor, resistor, coil, transformer, and other inductor

[237]Moran et al., "Global Supply Chains"
[238] Moran et al., "Global Supply Chains"
[239] Moran et al., "Global Supply Chains"

manufacturing products. These products are then moved through USA general federal defense government services industry with a final demand in USA in the general federal defense government services sector.[240]

Medical Path of Embodied Coltan

1. DRC →Rwanda → Germany processing → Germany end user

The medical path of DRC mined coltan trade illustrated above, is valued at US$40,000 being 0.12% of year 2000 production. Once the coltan is processed in Germany, Germany communication and electronic equipment are produced. The final demand of coltan in Germany comes is in the medical, scientic, optical equipment, and watches sector.[241] This embodied coltan could be embodied in hearing aids, pacemakers, suture clips, coated on medical implants, used to produce X-ray lm, or included in trace amounts in camera optics or in the electronics in a digital camera.[242]

6.3 International Gateways

The next two sections highlight the two specific international gateways that transport DRC mined coltan to the global market; Rwanda's role as an exporter and China's role as an exporter. The typical supply chain of coltan produced in DRC and sold by illegitimate means thus looks as follows: it is exported via Rwanda or other Central African Countries, and is bought by Chinese processors. These processors are often smaller companies who do not have pressure to disclose information or to report. They, in turn, produce and export downstream products such as K-salt

[240] Moran et al., "Global Supply Chains"
[241] Moran et al., "Global Supply Chains"
[242] Moran et al., "Global Supply Chains"

used to make capacitor-grade powder. Those products do enter the global market while their origins are obscured.[243]

Rwanda: Export

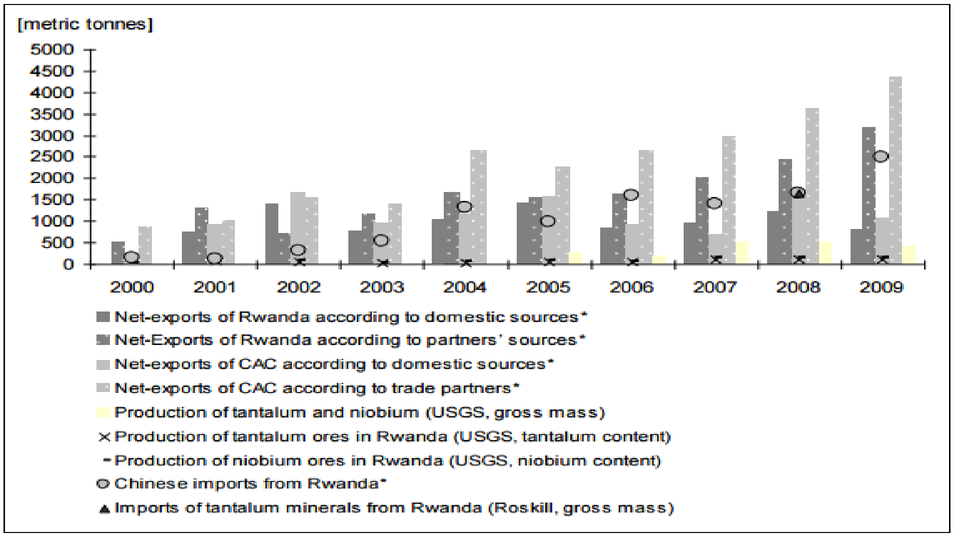
Congo's coltan exploitation exists near its closest bordering neighbor, Rwanda. The process for coltan mining is usually conducted in five stages:

1. Exploration
2. Detection
3. Extraction
4. Transportation
5. Treatment and Commercialization.

The involvement of the international community in the exploitation of Coltan in the congo converge around stages 1- 5, where multinational corporations lead the extraction, detection and treatment and commercialization of the mineral, while brokers like Rwanda who occupy an important role as a gateway oversee the extraction and transportation of coltan within the continent and out of the continent.[244] Some mines, such as the Nairobi mine, clearly refer to destination, while the bulk of coltan is processed through Kigali, the capital of Rwanda, en route to the ports of Mombassa, Kenya, or Dar-es-Salaam, Tanzania.[245]

[243] Bleischwitz et al., "Coltan from Central Africa"
[244] Khadija Sharife, "Who Benefits From Coltan?" (DR Congo's Magic Dust That Has Played a Central Role in Transforming Modern Technology). *Hunger Notes*. February 17, 2010.
[245] Sharife, "Who Benefits From Coltan?"

Figure 4: Estimated coltan production and trade of Rwanda and Central African Countries



Sources: UNComtrade, USGS; *Unspecified contents of tantalum, niobium and vanadium ores and concentrates.

Much of the Rwanda's transport sector of coltan mining is controlled by members of the elite network of Rwandan origin maintain commercial ties with transnational criminal networks. In 2002, Victor Bout, Sanjivan Ruprah and Richard Muamba Nozi were in charge of transporting coltan and cassiterite, supplies into mining sites, and military troops and equipment.[246] Despite decade's worth of effort to dismantle to take down the criminals in charge of these criminal networks, the networks themselves remain active. In 2012 Viktor Bout was sentenced to 25 years in a U.S prison for charges of terrorism, yet the surviving network of associates assembled on the Indian Ocean island of Mauritius to prepare a new launching pad for gunrunning to UN-embargoed countries.[247] The three primary regions that the trafficking networks have in their gunrunning sights include: one, The Middle East via Iran, two, the Great Lakes Region via the Democratic Republic of the Congo, three, the Horn of /East Africa via Sudan and Somalia.[248]

[246] Sharife, "Who Benefits From Coltan?"
[247] Sharife, "Who Benefits From Coltan?"
[248] Estefanía López Guevara and Eduardo Salcedo Albarán," Coltan Trafficking Network in the Democratic Republic of Congo". (Research Paper No. 19 for the Global Observatory of Transnational Criminal Networks).

The societal reach of these crime networks are not exclusive to government entities, who have been complicit in the illicit trade of coltan.

A political party in Rwanda, identified with the code POPAINRWRPAR, organizes the plundering of mineral resources such as diamonds, coltan and gold creating an intricate network of corruption led by the "Congo Desk". The Congo Desk is comprised of the Directorate Military Intelligence or DMI's secret services, and Rwandan companies. It is important to note that the Rwandan companies were backed by multinational corporations and Western powers. On the other hand, the Rwandan regime is charged with mass-scale looting, systemic exploitation, and the organization of an elite network centrally located in the Rwandan Defense Department with the express objective of capturing revenues through the exploitation of the DRC's natural resources.[249] Rwanda has been named a laundering center in international trade.[250]

Given the intricate and internationally supported crime networks involved in the illicit coltan trade, Rwanda is posited as the preferred trade route for illegally traded minerals financing the conflict parties for several reasons. Exports of tantalum concentrates aren't taxed in Rwanda while the DRC has been taxing official mineral exports. As a result of greater economic benefit, trade via Rwanda is more profitable than legal exports via Kinshasa.[251] According to Rwandan law, imported minerals could be declared as minerals produced in Rwanda if they are further processed in Rwanda and enhanced in value of about 30%. Coltan imported from DRC to Rwanda could be legally exported as coltan from Rwanda without separating whether it was imported legally or illegally.

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[249] Guevara and Albarán, "Coltan Trafficking Network"
[250] Global Witness, "The Hill Belongs to Them". *Global Witness*, December 14, 2010.
[251] Bleischwitz et al., "Coltan from Central Africa"

The duplicitous actions of Rwanda adds to the complexities in delineating conflict and conflict free coltan. The duplicity of the state is further evident in the lack of credibility in trade reports. Rwandan sources report that it imports 131 t of tantalum and niobium ores from DRC in 2009 with a value of around $ 1.1 million, and exports around 949 t of tantalum with a value of around $ 18 million.[252] Reports from Rwanda's trade partners contradict these numbers. Trade partners claim that Rwanda's net-exports of these ores and concentrates amount up to 3.195 t with a value of $ 41 million in 2009.[253] The difference of a factor 3.3 in production and 2.3 in value is striking but the interpretation is not unambiguous. The data seems to indicate an increasing illicit trade since 2005 from Rwanda for an amount that could hardly be quantified exactly.[254]

The explanation of Rwandan trade discrepancies leads us into the next section, which outlines China's role in the DRC coltan trade. Trade discrepancy is thought to be a result of double-counting and implausible data reported by importing countries, most importantly Chinese imports that dominate the figure.[255] The following section will explore the shift in trade pattern that moves DRC coltan east to China. Beginning in the nineties, western countries had been the dominant importers of coltan from DRC.[256] Since 2000, Asian countries, most dominantly China, increasingly import coltan directly from DRC. Shifts include increased of trade between African countries on the one hand and on the other hand China and other developing countries who are investing predominantly in resource rich African countries. As reported by the Congolese Ministry of mines the coltan imported by China constitutes 60 % of the North and South ivu's

[252] Bleischwitz et al., "Coltan from Central Africa"
[253] Bleischwitz et al., "Coltan from Central Africa"
[254] Moran et al., "Global Supply Chains"
[255] Moran et al., "Global Supply Chains"
[256] Moran et al., "Global Supply Chains"

production. In 2009, China has purchased a predominantly gross mass of 121 t of coltan with a value of around 2.6 million US$ directly from DRC.[257] China's increased trade in the Congo has resulted in it becoming one of the two international gateways for DRC mined coltan.

China*: *Import

In recent years, Congo's historic relations with Europe have shifted. This is guided by the continent wide shift from the west to the east. China has been at the center of trade, economic investment, aid in Africa, the same remains true for Congo. In recent years, China has surpassed Belgium as Congo's top trade partner in 2008. Beginning In 2007, The DRC and Chinese governments signed an agreement valued at USD 9 billion with DRC providing 620,000 tonnes of cobalt and 10,000,000 tonnes of copper in return for infrastructure to be constructed by the Chinese, such as roads, railways, hydroelectric power stations, universities, and health centres. In 2009, the value was reduced to USD 6 billion.[258] In 2014, it did $4.33 billion of trade with Congo, 57% more than the entire European Union and 12 times greater than the US.[259] The mutual attraction between Congo and China centers on the lack of existing of transparency. Lack of transparency is a plus for both exporters of Congolese Coltan and China. China has increasingly positioned itself to be the primary importer of resources without addressing the issue of transparency[260], in turn this makes the contractual agreements opaque as well.

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257 Moran et al., "Global Supply Chains"

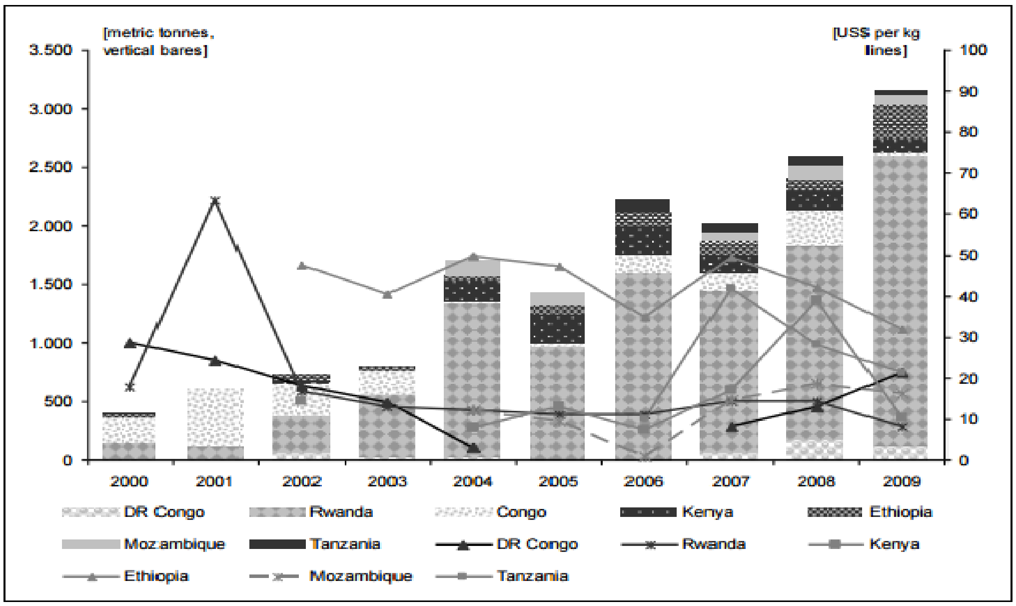
258 Ewan Sutherland, "Coltan, the Congo and Your Cell Phone: The Connection between Your Mobile Phone and Human Rights Abuses in Africa '. (Thesis, University of the Witwatersrand, 2011)

259 Wilson, Tom. "What Crisis? Undeterred, China Snaps up Vital Congo Resource as Western Miners Bail Out". *Mail & Guardian Africa*, March 7, 2016.

260 Michel, Serge, and Michel Beuret, *China Safari: On the Trail of China's Expansion in Africa*. (New York: Nation Books, 2008).

During the nineties, western countries had been the dominant importers of coltan from DRC. Since 2000, Asian countries, most dominantly China, increasingly import coltan directly from DRC.

Figure 5: China's imports of tantalum and niobium from selected African countries



Source: UN Comtrade (SITC-3-28785)

This goes in line with the overall increase of trade between African countries on the one hand and on the other hand China and other developing countries who are investing predominantly in resource rich African countries. According to data from the Congolese Ministry of mines[261] collected by the, the coltan imported by China constitutes 60% of the North and South ivu's production. In 2009, China purchased 121 t of coltan with a value of around 2.6 million US$ directly from DRC. Since 2000, China's imports of tantalum and niobium ores from the Central African region rose from 435 t or 11.3 million US$ to 3.154 t with a value of 36.3 million US$ in 2009. China now has become one of the most important importer of tantalum

[261] Global Witness, "The Hill Belongs to Them"

produced in the Central African region. China's imports reflect the complex relationship of coltan between DRC and Rwanda. China's direct imports from DRC are minor compared to other suppliers, among which the most relevant is Rwanda.[262] In physical terms, China imported around 73 % of all exported tantalum and niobium ores of the region .The DRC's official tin ore exports are mainly destined for China.

Chinese Refiners: The Giants of Coltan Trade

As of April 2011, most 3T trading houses were not able to find buyers for untagged minerals, except for those exporting to Chinese refiners, as they do not require tags or evidence of due diligence.[263] Chinese refiners lack of conditions, have played a significant part in securing its position as the largest importer of DRC coltan. Three Chinese companies figure among the main importers of coltan from the Kivus in 2009: one, Fogng Jiata Metals, two, Star 2000 Services, three, Unilink Trading Hong Kong.[264] These companies are not exempt from the discrepancies of conflict coltan. Although the UN doesn't consider these companies as involved in the minerals trade from areas controlled by armed groups, the actions of the Chinese government have not clearly been acknowledged as responsible.[265] This leaves ample room for any Chinese company involved in coltan trade to exit the bounds of corporate and international responsibility.

The company CNMC Ningxia Orient Nonferrous Metal Group is illustrative of these concerns. Ningxia is a state-owned enterprise and is one of the world's top three smelters and producers of tantalum.[266] The tantalum it produces is used by the largest capacitor manufacturers

[262] See figure 5 above
[263] IPIS, "The Formalisation Artisanal Mining"
[264] IPIS, "The Formalisation Artisanal Mining"
[265] IPIS, "The Formalisation Artisanal Mining"
[266] Bleischwitz et al., "Coltan from Central Africa"

such as the US based AVX, that in turn supply electronics to companies such as Dell, Intel and RIM Blackberry and Hewlett-Packard. [267]Although the company claims it has transparent sourcing practices, the K-salt that the company uses to produce tantalum and that it claims to come from refineries in China, can be used to cover the Congolese origin of the tantalum they use.[268] Ningxia continues to import coltan from DRC despite all concerns of conflict.[269] Ningxia did not respond to a questionnaire that attempted to address supply chain challenges for electronics industry and their use of critical metals.[270] China is an important actor in the trade of DRC mined coltan. Its dealings in the country and the broader Central African region mirror the state of transparency in the overall global trade of DRC mined coltan. The capacitor production in China and exports thereof have been increasing rapidly over the previous few years, meaning that any supply chain management with certification rests more and more upon the credibility of China.[271]

There is the potential for great pressure to be placed on China in terms of taking leadership and closing the loopholes that facilitate illicit and un-transparent coltan trade. As China holds an increasing share of global electronics production and represents a growing consumer market, it has the capacity to assist the efforts of Western organizations and the DRC's own efforts at cracking down on the conflict mineral trade. The state controlled supply chain may facilitate implementation of regulatory measures to monitor raw materials.[272] However, the organizational structure means that an effective strategy would need to target complex policy motivation for

[267] Bleischwitz et al., "Coltan from Central Africa"
[268] Global Witness, "The Hill Belongs to Them"
[269] Dev Nathan and Sandip Sakar. "Blood on Your Mobile?" *Economic & Political Weekly*, 15, 43 (2010): 22 – 24.
[270] Bleischwitz et al., "Coltan from Central Africa"
[271] Bleischwitz et al., "Coltan from Central Africa"
[272] Tiffany Ma, "China and Congo's Coltan Connection". Project 2049.

procuring resources from abroad in addition to social responsibility.[273] Action is need by both consumers and manufacturers to provide a sufficient catalyst in generating the necessary momentum that will resonate down the supply chain. [274] Efforts to reduce demand for conflict minerals through supply chain transparency are crucial steps towards ending the cycle of violence supported by mineral profits.[275]

The following section discusses the context of the global market and the possibility of gateway states like Rwanda and China illicitly trade DRC coltan on the global market.

6.4 Global Markets: The Law of 'Might vs Right'

When discussing the reality of illegal coltan trade, state failure is often named as a singular cause. Other answers can be found in the ways that international changes have created the conditions that allow rebel groups to profit from the exploitation of DRC.[276] Changes on an international scale include the rising power and importance of non-state actors. Their power and influence further complicate trade networks and at times, undermine the power of the state. This has contributed to the construction of new regional and international networks, both licit and illicit, which rebels have utilized to their advantage.[277] A market explanation reveals that the decline of superpower patronage and increased market liberalization has meant that trade in conflict goods has a particular salience that connects contemporary conflicts and the process of state collapse.[278] The growth of criminal networks, which have been particularly important in

[273] Ma, "China and Congo's Coltan"
[274] Ma, "China and Congo's Coltan"
[275] Ma, "China and Congo's Coltan"
[276] Caitlin Dearing, "A Global Approach to Regulating Trade in Conflict Goods in the DRC", *International Affairs Review* 1, 3 (2009): 5pp.
[277] Dearing, "A Global Approach"
[278] Dearing, "A Global Approach"

exporting DRC coltan to the global market can be explained through deregulation. The deregulation of international financial markets, the opening up of new markets and the expansion of old markets, and advances in technology have led to a growing engagement between rebels, political elites, and international criminal networks.[279] With the expansion of actors on the global stage, elites have gained greater opportunity to secure ties to different networks, allowing them to develop links to states, companies, international organizations, and global markets as a means to assert claims over resources and authority. [280]

Actors in contemporary conflict use global trading networks and Diasporas to exploit their control over local resources to fund wealth acquisition and military campaigns. While this highlights the amoral side of global capitalism, with much of this trade ultimately dependent on purchases by companies or actors operating in the domain of the supposedly legitimate economy, it also further implicates the over looming international law. Today's international rule says that coercive control over a population ("might") will result in legal control over that population's resources ("right") . . . might makes right is as true for an autocrat in coercive control of an oil rich country as it is for a band of militants who seize mines by force[281]. Effectiveness' is the international rule for resources and it creates incentives for coercion and crime in resource rich countries. The rule of effectiveness provided additional layer to explain the 2nd level of exploitation fragile states encounter internationally.

Effectiveness -- might makes right -- only appears as an international rule because convergence on that rule is nearly universal[282]. While no single written code exists to justify

[279] Dearing, "A Global Approach"
[280] Dearing, "A Global Approach"
[281] Wenar, *Blood Oil*
[282] Wenar, *Blood Oil*

might versus right, the domestic strength of this has transferred it into an international normative concept. International trade in natural resources is the only sphere in which effectiveness continues to rule, this is the realm of international resource trade. Where, domestic policies that disregard popular sovereignty create loopholes in the transaction of illegal goods. These loopholes expose the world to the importance of popular sovereignty. This results in a whole new class of international and local entrepreneurs that profit from unregulated global networks of illegal resource extraction and arms trafficking.[283] Corruption creates massive limitations in coltan trade. The following sections looks at why these limitations are difficult to manage and what initiatives exist to curb corruption.

6.5 Limitations of International Coltan Trade

Attempts to curb the illegal nature of coltan trade has produced discourse on certifications which attempt to follow the precedent set by Kimberley Process of certification for 'blood diamonds'. Important lessons cover the purpose, administrative and operational aspects. In order for these certifications to be effectively implemented, is it important for inclusive and relatively strong institutions to follow alongside them. On a general state level, administrative capacity building in the region with independent auditing will be a key to establish reliable evidence and to fight corruption and can be seen as market leverage in industrialized countries.[284] However, coltan differs from diamonds because:[285]

[283] Dearing, "A Global Approach"
[284] Bleischwitz et al., "Coltan from Central Africa"
[285] Bleischwitz et al., "Coltan from Central Africa"

1. The number of actors involved upstream and their ability to mix illegitimate sources with legal ones during the first stages of the supply chain are huge, centralizing traders and monitoring 100% of their operations should be useful

2. The security situation in the region remains fragile

3. The production chain downstream is much more complex and entirely globalized, with Chinese companies being in the largest position

4. Tantalum is not an end-product in itself, many companies are unaware yet whether it is a component in one of their products, and consumers have difficulties to realize it either.[286]

Given that certification schemes for coltan are at its naissance, the failures and weaknesses of certain initiatives are at the center of its discourse. Weak internal controls are largely caused by the difficulty in monitoring pervasive, uncontrolled artisanal mining in the large country, which lacks government control in many mining areas and borders, and has limited resources.[287] The coltan certification schemes can possibly help companies to secure coltan supply without being accused of financing armed groups. I will first examine initiatives that focus on helping industries avoid the trade of conflict coltan, then I will examine two specific certification schemes from CTC and ICGLR that attempt to meet the challenge of detecting and certifying conflict free coltan.

[286] Bleischwitz et al., "Coltan from Central Africa"
[287] Miho Taka, "Conflict Coltan: Local and International Dynamics in the Democratic Republic of Congo. (Ph.D. Thesis., Coventry University, 2011).

Industry Initiatives

Social pressure has been a somewhat effective tactic in calling industries to action. Campaigns from NGOs like MakeITFair and Enough which expose social, environmental and humanitarian issues associated with the extraction of certain metals used in components of Information Communications Technology (ICT) equipment, bring the conflict to the society's conscious. In response to concerns raised by NGOs around the world, in 2008 the ICT industry launched the Conflict-Free Sourcing Initiative (CFSI) to assist electronics manufacturing companies to source responsibly and reduce the risk of conflict minerals ending up in their products.[288] Australian Mobile Telecommunications Association's members have crafted a joint global initiative by Electronic Industry Citizenship Coalition in partnership with the Global e-Sustainability Initiative (GeSI), which promotes responsible procurement of minerals through accountability and traceability of the status of minerals in global supply chains.[289] The initiative offers companies and their suppliers an independent, third-party audit that determines which smelters and refiners can be validated as "conflict-free," in line with current global standards through their flagship Conflict-Free Smelter Program.[290] The United States' contribution to conflict free coltan trade came in the form of the Dodd Frank Law in 2011, which requires companies publicly traded in the US to disclose whether their products contain any of these minerals and similar directives are expected in the EU as well. Beyond isolated projects like

[288] Australian Mobile Telecommunications Associations, "Mobile Telecommunications Industry Initiatives to Reduce Use of Coltan Conflict Metal". Mobile Muster.com.au, 2014.
[289] Australian Mobile Telecommunications Associations, "Mobile Telecommunications"
[290] Australian Mobile Telecommunications Associations, "Mobile Telecommunications"

AMTA and Dodd Frank Law, global initiative like Conflict-Free Sourcing Initiative (CFSI) seek to address conflict minerals on a larger scale.

6.6 Conflict-Free Sourcing Initiatives

Founded in 2008 by members of the Electronic Industry Citizenship Coalition and the Global e-Sustainability Initiative, the Conflict-Free Sourcing Initiative has grown into one of the most utilized and respected resources for companies from a range of industries addressing conflict minerals issues in their supply chains.[291] Over 350 companies and associations from seven different industries participate in the CFSI today[292], and they regularly collaborate with other complementary programs and initiatives in this area. They also run a twice-yearly Conflict-Free Sourcing Initiative Workshop, which brings together hundreds of representatives from industry, government and civil society for updates, in-depth discussions and guidance on best practices on responsible mineral sourcing. The EICC and GeSI partnership is working on involving industries other than electronics manufacturers to join the global initiative to use conflict-free supply chains and supporting peaceful developments in the Great Lakes region of Africa.[293] Below are the program actions by the CFSI to address conflict minerals.[294]

- **Conflict-Free Smelter Program (CFSP).** Through the CFSP, we identify smelters and refiners that produce conflict-free materials. In order to confirm this status, we use specially trained third-party auditors to independently verify that these smelters and

[291] CFSI, "About the Conflict-Free Sourcing Initiative".
[292] CFSI, "About the Conflict-Free Sourcing Initiative".
[293] Australian Mobile Telecommunications Associations, "Mobile Telecommunications"
[294] CFSI, "About the Conflict-Free Sourcing Initiative".

refiners can be deemed conflict-free. A list of smelters and refiners that meet the standards of the audit are published online. The audit standard is developed according to global standards including the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas and the U.S. Dodd-Frank Wall Street Reform and Consumer Protection Act.

- **Conflict Minerals Reporting Template (CMRT).** The CMRT is a free, standardized reporting template that facilitates the transfer of information through the supply chain regarding mineral country of origin and smelters and refiners being utilized. The template also facilitates the identification of new smelters and refiners to potentially undergo an audit via the Conflict-Free Smelter Program.
- **Due Diligence Guidance.** Our due diligence working group focuses on producing white papers and other analyses and guidance for companies about best practices and various standards on addressing conflict minerals in the supply chain and reporting. These resources are all available on our website.
- **Stakeholder engagement.** The CFSI regularly participates in public forums to provide information about the CFSI and CFSP and share tools, best practices, and mechanisms to identify and mitigate risks in the 3TG supply chain. CFSI engages with a variety of non-governmental organizations, responsible investor groups, governments and multilateral institutions to discuss emerging issues, best practices and work on addressing shared challenges. CFSI participates in a range of multi-stakeholder groups and hosts an annual workshop to provide a forum for dialogue with stakeholders.

The Durban Process

The Durban Process is the only Congolese-owned multi-stakeholder partnership which includes various local and international stakeholders.[295] The Durban Process focuses on issues such as poverty, the absence of infrastructure, insecurity, inequality and the legislative environment for the artisanal mining sector.[296] The process recognized the underlying factor that leads many into partaking in illicit trade, poverty. It further recognized the connected relationship among poverty, armed groups and artisanal mining, and tried to focus on poverty alleviation and ethical coltan mining in its program.[297] The key priority of the Durban Process was an implementation of 'best practice' mining in line with the 2002 Mining Code. The plan was to create 'a model mine to demonstrate ethical mining' since it 'would be unethical to advocate, and impossible to implement, a complete ban on coltan mining' in the region when the artisanal mining 'has become the only available livelihood option for economic survival of the local population.[298]

Yet the initiative was unable to do much work due to lack of funding without receiving donors' support or mandates. The numerous business stakeholders made the progress slow and increased the agendas and expectations within the Durban Process. Eventually, the objective of ethically mined coltan was set aside to focus on minerals certifications by three other partnerships: the German-led CTC, the regional mechanism of the ICGLR and the industry based Joint Working Group of GeSI and EICC. The following section will only focus on the first two.

CTC

[295] Taka, "Conflict Coltan"
[296] Taka, "Conflict Coltan"
[297] Taka, "Conflict Coltan"
[298] Taka, "Conflict Coltan"

The Certificate Trading Chains 'CTC' program was created with the objective to progress beyond certifications. The objectives of the program were to one, poverty alleviation and regional stability using mineral resources and two, open and fair access to strategic raw materials, based on its definition of the problem being the illegal mining and trade of mineral resources as a source of violence and regional instability.[299] The program promoted the fostering the development of socioeconomic and environmental best practices in the mining industry. Beginning with certification, the CTC aims to verify the origin of ores using mineral fingerprints and certify mines that meet the required standards in the five principles of traceability and transparency, labor and working conditions, security, community development and environment.[300] These standards were incorporated by three Multi-stakeholder partnerships 286 other standards, namely, the OECD Guidelines for Multinational Enterprises, the VPs on Security and Human Rights and the EITI. An evaluation of the program's effectiveness can be seen through an examination of Rwanda. CTC has been in Rwanda since 2008, and has focused on areas such as such as transparency of mineral flows and associated payments, working conditions, security and human rights, and community consultation and gender.[301] CTC has also improved the control over production and tax payments of participating companies.

In able to assess its full impact, after baseline audits have determined how companies, unaided, performed against CTC standards, further guidance is provided to those most in need of assistance.[302] Companies were advised on how they could upgrade their operations in key areas. Five consultancies were provided, focusing on traceability, corruption, gender, work safety and

[299] IPIS, "The Formalisation Artisanal Mining"
[300] IPIS, "The Formalisation Artisanal Mining"
[301] IPIS, "The Formalisation Artisanal Mining"
[302] IPIS, "The Formalisation Artisanal Mining"

the environment. Taking the example of corruption, companies scored particularly low with regard to CTC Standard 1.4[303]although it has been argued that these low scores, level two out of 4 total levels, can be attributed to the absence of formal anti-corruption policies.[304] This showcases the importance of implementing a corruption free environment, even prior to certification initiatives.

ICGLR

The ICGLR, formally known as the Regional Certification Mechanism of the International Conference of the Great Lakes Region, is a regional, intergovernmental organization. The ICGLR is based on the recognition that political instability and conflicts involving its 11 member states have a considerable regional dimension and thus require addressing through concerted efforts.[305] The ICGLR's certification scheme works by a designed chain of custody that tracks standards to ensure that minerals are fully traceable and conflict-free up to the point of export. Member states have the responsibility of implementing and supervising the chain of custody system within their own borders.[306] Mineral flow is tracked and analyzed via an ICGLR regional database, using the data on individual shipments provided to the ICGLR by each member state. The certification process not only takes into account the path of the minerals, but also includes the participation of government and nongovernment actors.[307] Under the certification system, only minerals from a mine registered as certified in the ICGLR regional mine site database will

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303 'actively oppose bribery and fraudulent payments'
304 IPIS, "The Formalisation Artisanal Mining"
305 IPIS, "The Formalisation Artisanal Mining"
306 IPIS, "The Formalisation Artisanal Mining"
307 IPIS, "The Formalisation Artisanal Mining"

be used, with government verification taking place at the different stages of the supply chain.[308] Additionally, export certificates are only granted to actors implementing due diligence.

Although the ICGLR showcases detailed regional effort to combat the illicit trade of minerals, the work of the organizations is undermined by regional differences. The disagreement between the member states and the international and donor communities as supporters on the focus of the programs exposes the risk of undermining member states' ownership.[309] The ICGLR runs the risk of having the same fate as the Durban Process if it does not receive strong institutional and financial support from the donor communities. It is also imperative that meaningful partnerships take place with local and foreign stakeholders, partnerships that clearly outlines aligning and diverging objections. However it must be noted that meaningful participation by the local stakeholders entails a huge challenge, as artisanal mining communities are not well organized or democratically represented and civil society may lack the capacity to become involved in the initiative freely and constructively.[310]

[308] IPIS, "The Formalisation Artisanal Mining"
[309] IPIS, "The Formalisation Artisanal Mining"
[310] IPIS, "The Formalisation Artisanal Mining"

-CHAPTER SEVEN-

VII. Conclusion

The underlying question posed by this thesis centers on the ability of illegitimate trading of natural resources to occur despite international initiatives that exist to certify conflict free resources. Beyond establishing a regional theory for the Sub-Saharan region, to answer this question in a more narrow scope, Chapter 4's case study on the Congo (DRC) investigates the continuance of illegal coltan trade. The assumption in this thesis is that illegitimate trading is linked to resource dependency, which in turn is heightened by government fragility. The lack of a powerful central government exposes the state to 2 broad levels of exploitation 1. Domestic 2. International.

The overarching question leads to 3 specific questions:

1. Does state fragility impact illegitimate natural resource exploitation in SSA countries.
2. What information does the coltan trade in Congo reveal about illegitimate trade of natural resources?
3. How has the Chinese Gateway impacted the international trade of Congolese mined coltan?

The research hypothesis, expanded in chapter 5, says that conjuration of state strength and resource abundance propel and or fast track sub-Saharan African nations to development , and four possible situations arise from this interaction: First, strong government leads resource rich countries to faster economic development. Second, resource poor countries with strong governments undergo slower development due to lack of resources. Third, resource poor countries with a fragile state leads to unsatisfactory governance that erodes development. Fourth, the worst case scenario, resource rich countries with a fragile state leads to a lack of governance which results not only in stunted development, but pockets of uncontrolled violence and conflict generated by internal and external struggle between state and non-state actors to control resources for personal wealth.

We find higher GDP per capita associated with countries that are both resource rich and exhibit little to no state fragility. Context provided supports the argument that Botswana's academic development is directly tied to its diamond mining industry, an industry that is strongly supported by a government with sufficient administrative capacity and control. The DRC by contrast illustrates how a state lacking in administrative capacity results in institutions that are unable to support the mining industry. The lack of support results large pockets of corruption that make it possible for illicit trade to occur. The Illicit trade of coltan in the DRC is housed between an international society that legitimizes trade of coerce natural resources acquired through force, and a fragile state absent of functioning institutions needed to support ASM miners and traders against the exploitation of rebel armies and corporate corruption.

7.1 Brief Summary of Chapters

Chapter 2: The literature review frames the supporting context of this thesis, it does so by focusing specifically on the role of governments and institutions in relation to natural resource dependency. When discussing development or merely economic growth in SSA it is important to centralize government due to its destabilizing power and volatility within the region. Chapter 2 highlights institutions and natural resource, fragile states, and Governance. As for the operating framework I focus on, Institutional Theory, Francis Fukuyama's State building, and Leif Wenar's International Law: Principle of Effectiveness. Literature on institutions and natural resources center the quality of institutions in their analysis. The frameworks help us to construct a context to understand the function and operation of institutions, the function and operation of states in terms of strength, as well as the function and operation of international law. Institutional theory argue, as I posit in this thesis, the development of institutions in a given country is often an outgrowth of a country's colonial experience[311]. This assumption is helpful when assessing why some countries like Congo, have struggled to secure a strong government. Francis Fukuyama's construction of a state strengths claims the crux of framework on state strength lies in understanding and assessing first and foremost the scope of the state and its strength. Scope refers to the different functions and goals taken on by governments, while strength focuses specifically on state power and the ability of states to plan and execute policies, and to enforce laws cleanly and transparently. The international law of effectiveness then provides us with a framework to see how natural resources operate on an international level. Wenar argues that the operation is driven by force, coercive control over a population ("might") will result in legal control over that population's resources ("right") . . . might makes right is as true for an autocrat in coercive control of an oil rich country as it is for a band of militants who seize a mine by force[312]. This thesis' contributes to the literature on illicit trade of coltan in the DRC by specifically highlighting the norm that governs international law. To deal with the root of the issue would be to eliminate the global supply chain of resource exploitation that perpetuates much of the underdevelopment that occurs in resource rich developing countries.

Chapter 3: Quantitative analysis is conducted using Cross Time Series regression, 54 countries over a 9 year span from 2006-2014, independent variable, FSI, - dependent, exports.

Chapter 4 raises the question why is the state (DRC) weak? The question is answered by illustrating how the country lacks strength. When measured with Fukuyama's definition of a

[311]Neumayer,"What Is the Appropriate Role"

[312] Wenar, *Blood Oil*

strong state, the different functions and goals taken on by governments and state power and the ability of states to plan and execute policies, The DRC does not measure up. Examples are provided by construction of the state, its constitutional goals, and the reality of its administrative failures and lack of transparency. The DRC's constitution was not finalized until 2006, despite gaining independence on June 30th, 1960. The state has been unable to meet 3 specific goal outlined in the constitution: one, National sovereignty belongs to the people (article 5),[313] two, all power emanates from the people, who exercise it directly by referendum or elections and indirectly through elected representatives.[314] Two, all Congolese have the right to enjoy the national wealth and the State has the duty to redistribute it equitably and to guarantee the right to development (article 58).[315] The state is ultimately weakened by its nonexistent administrative capacity. The administration of the state is corrupt, underfunded and lacks professional personnel and resources. This results in infrastructure that is fragile in most major cities and almost nonexistent in remote areas. Further decentralization from 11 provinces to the constitutionally recommended 26, which was considered an important step toward reconstruction due to the country's immense geographical size, was never implemented. A large majority of the country is repeatedly subject to two parallel administrations, one by the state and one by armed groups. In those parts of the country that are subject to rebel rule, democratic institutions do not perform at all.[316]

Chapter 5: The Botswana case study raises the question of how Botswana able to use diamond mining to achieve economic development. Botswana holds the position as one of the stable and

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[313] Constitute, " Congo Constitution"
[314] Zongwe et al, "The Legal System"
[315] Constitute, "Congo Constitution"
[316] Bertelsmann Stiftung's Transformation Index, "Congo, DR"

prosperous states in Sub Saharan Africa. Botswana's ability to achieve economic development was a direct result of the government's strength in terms of intentional state building. The administrative capacity of Botswana is a remnant of colonial institutions when the colonial administration in the early 1960s began the process of adopting a more explicit planning approach. The Botswana Democratic Party's pledge to nationalize mineral resources in the 1965 election campaign was an overt effort at nation building, despite not knowing the extent of mineral resources the country held (diamond in particular), and Seretse Khama, leader of the BDP as well as hereditary chief of the BamaNgwato, campaigned on a promise to use mineral resources for national development instead.[317] With targeted national effort to direct diamond mining revenue to state development, Botswana was able to transform the economy. They attracted investors by keeping mining taxes fixed at a 10% rate and voided additional tax revenues from the mining industry, which could eventually result in a greater burden on the emerging new foreign investment and stunt future growth. Additionally the government seldom altered the tax structure of the mining industry, maintaining a level of stability in a volatile industry. Therefore mining companies could invest with a confidence they would be taxed and regulated at a relatively low and predictable rate.[318] Other policies focused specifically on directing natural resource revenues towards building institutions.

Chapter 6 focuses on international trade of coltan and asks the question, how the trade of DRC mined coltan operate internationally? DRC mined coltan is distributed to the international trade market through two international gateways: Rwanda and China. DRC mined coltan is exported via Rwanda or other Central African Countries, and is bought by Chinese processors. These

[317] Poteete, "Defining Political Community"
[318] Scott Beaulier, "Explaining Botswana's Success"

processors are often smaller companies who do not have pressure to disclose information or to report. They, in turn, produce and export downstream products such as K-salt used to make capacitor-grade powder. Those products do enter the global market while their origins are obscured.[319] The chapter also highlights initiatives to curb unsourced DRC mined coltan. CTC the aims to verify the origin of ores using mineral fingerprints and certify mines that meet the required standards in the five principles of traceability and transparency, labor and working conditions, security, community development and environment. While the ICGLR's certification scheme works by a designed chain of custody that tracks standards to ensure that minerals are fully traceable and conflict-free up to the point of export. Member states have the responsibility of implementing and supervising the chain of custody system within their own borders. Mineral flow is tracked and analyzed via an ICGLR regional database, using the data on individual shipments provided to the ICGLR by each member state.

7.2 Discussion

Botswana and the DRC

Botswana's strong state has been central to its ability to stand out among other sub Saharan African countries. There are three explanations that account for Botswana's strength have so far emerged: one, the substantial financial means available represents policy instrument usually absent in other developing countries, two, Botswana has a far more effective bureaucracy, adherent to rational policy-making, than most other African states, three, patron-client relationships which may penetrate the institutions of the state, and thus frustrate effective policy-making and implementation, have not become a major problem in Botswana. [320] This has led to the argument that the strength of the Botswana state is partly explained by low pressure from the

[319] Raimund Bleischwitz et al., "Coltan from Central Africa"
[320] Oxford Policy Management, "The Impact of Mining"

opposition, the legislature in general and a weak civil society, which thus facilitate insulation of the key policy-makers found in the institutions of the government.

The fundamental distinguishing factor between Botswana and the DRC centers on the administrative capacity gap that exists between the two countries. Said administrative capacity is rooted in the type of colonization experienced by both countries. While Botswana has been able to gain skills and institutions needed to govern effectively while occupying certain administrative roles prior to independence, The DRC is plagued by the inheritance of a broken political system post-independence. The DRC's transition into independence plays an important role in establishing a culture of distrust for the central government, and armed violence as a form of communication and vehicle for power. This has been exhibited through the way the three premier and only leaders of the DRC have come into power. Each led by armed forces ready to seize power from their predecessor. Much like power had to be violently taken from the former colonial state of the DRC.

It is important to insist that colonization plays a role in the outcome of a nation's performance post-independence not just because there is a trend of former French colonies performing worse than other colonies, but because of the type of governing behavior that is modeled and most importantly the nature of institutions that are inherited. Simply learning the necessary skills to manage institutions at the naissance of one's national independence gives greater opportunity for mistake and optimal growth.

Coltan Mining: Differentiating ASM from Formal Mines

When discussing mining in the DRC, it is imperative to distinguish the largely informal sector of artisanal mining from the formal sector that exists in Botswana for example. Coltan is such an elusive and exploitable mineral, in part because most of the mining is artisanal. Since the mining sector was liberalized by Mobutu in 1982, it has become a vehicle through which large groups of people in the DRC navigate poverty. It is estimated that more than 500,000 miners may be working in the mines of the eastern DRC, who in turn support a wider community. Across the country as a whole, artisanal and small-scale mining is estimated to provide direct and indirect support to over 10 million people. Artisanal mining is an essential livelihood strategy, as well as an important source for the flow of cash into many communities. Despite it being a source of financial support for many in the country, the sector remains largely informal and very few miners and mineral traders are officially registered. Though artisanal mining was legalized through the 2002 DRC Mining Code the conditions attached to that legalization have been largely ignored. They rarely hold the official artisanal mining card, which is issued by the Mines Division.

Artisanal miners have an imbalanced relationship with the formal structures of mining that keeps them from abiding by the mining laws. They do not find any incentive in purchasing the official artisanal mining card, because for them it too expensive and they get nothing in return for card ownership. Artisanal miners do not receive technical support from the state nor do they receive better infrastructure in mining areas. In addition to not being registered, artisanal miners generally dig in areas where such extraction is legally prohibited, i.e. on industrial concessions. The Mining Code determines that artisanal exploitation is only permitted in specially designated artisanal mining zones, or zone d'exploitation artisanale (ZEA), however, the government has failed in implementing ZEAs in large mining areas, forcing artisanal miners to once again bypass the laws.

At the root of artisanal mining are vulnerable individuals attempting to escape poverty, and who they seek avenues to mine and trade despite illegality. At the source of the country's mineral chains, hundreds of thousands of artisanal miners are extracting ores with rudimentary tools and brute manpower.[321] ASM has played a role in delegitimizing the trade of coltan by directly violating rule of law and the space has been co-opted by the involvement of armed groups (state as well as nonstate actors), who exploit the vulnerability of artisanal miners. This is only one of the pertinent domestic reasons why illegal trade of coltan persists, but it doesn't speak to all factors of the trade. ASM miners and traders occupy the bottom rung of the illegal trade hierarchy, they are simply the vehicle through which coltan is obtained and hold no formal or informal power. They are often bound to illicit trade by the need to escape poverty and the need to escape the violence of armed forces. Other actors, such as regional leaders and armed forces leaders play a much role in orchestrating the illegal trade of coltan in DRC. The section bellows delves deeper into how illegal trade flourishes under the direction of state actors and non-state armed actors

The Supporting Network of Illegal Coltan Trade in the DRC

The orchestration of the exploitation of minerals in the DRC was examined by the Chairperson of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo, who said that massive looting of natural resources had been going on since 1998. As mentioned throughout the Congo chapter, the exploitation of resources was carried out in a systematic and systemic fashion, taking the forms of confiscation, extraction, forced monopoly and price-fixing. The blur between legal and illegal trade takes place when both non state and state actors participate in the exploitation of minerals

[321] IPIS, "The Formalisation Artisanal Mining"

through planned preparation and organization and receive most if not all the benefits. The actors involved include, top army commanders and businessmen, as well as government structures. Some companies have even been granting concessions that were in in violation of normal rules and procedures

Due to the heavy military presence at some mines and the conflict has surrounded the coltan mining since the start of second president Laurent D. Kabila's tenure, a large link remains between the level of military activities and the level of exploitation of resources. These militaries are not limited to state and non-state armed domestic groups, but they also cross borders. The Rwandan military for one, has used the mineral wealth of the DRC as a withdrawal system. The re-exportation of DRC minerals has resulted in wealth benefits not only for Rwanda but for other neighboring countries like Uganda and Burundi. As a consequence of domestic political instability, little has been done to rectify the economic theft committed by neighboring countries. Suggestions have been made to place sanctions on those exploiting resources of the country illegally, that it institute preventive measures, and that compensation be paid to those who suffered as a consequence of illegal activities.[322] Yet without major improvement of the state's administrative capacity, it is clear that these suggestions may not be effectively implemented and enforced, if they are carried out at all.

Artisanal Mining and Militia Groups: Intersecting Vulnerability and Conflict

Conflict in the mining of coltan is driven primarily by the presence and exploitation of armed groups. Armed groups use vulnerable mining sites as sources for the extraction of wealth

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[322] Security Council, "Security Council Condemns Illegal Exploitation of Democratic Republic of Congo's Natural Resources". UN.org, 2001.

that increases the duration of civil war and more simply the existence of these armed groups. It is not just local militia groups, and rebels from the Democratic Forces for the Liberation of Rwanda, FDLR, that are reported to be extracting minerals.[323] Government soldiers, who are supposed to be maintaining law and order in the region, have also been implicated in the trade.[324]The parasitic relationship between artisanal miners and armed militias has exposed the government's ineffectiveness in controlling violence and corruption within the state and its borders. Most importantly it has showcased the need to break the cycle of poverty that leads to destructive avenues for income. Due to inconsistent and low pay, some government soldiers enter into the business of illegal mining to supplement their income. The consequence of armed groups' involvement in illegal mining comes at a large price for miners and traders, occupy greater power and posing a serious psychical threat, people are being conscripted for forced labor in the mines. In certain mines in eastern DRC, armed militias have set up checkpoints where they monitor quantity of coltan extracted and undercut prices for traders. Severe forms of control result in armed militias dictating civilian relationship with the government.

The provinces of North Kivu, South Kivu and Maniema, suffered from attack by the militias in the form of the rape of more than 300 women and children in Walikale territory, North Kivu, from July 30 to August 2, 2010[325]. The attacks were motivated by a need for militia groups to instill fear and ultimately have control over the population and assert themselves above the government in that region. The villagers were being punished for colluding with government forces. These attacks are motivated by a need for militia groups to instill fear and ultimately gain

[323] Taylor Toeka, "Illegal Mining Fuels DRC Conflict". *All Africa,* January 12, 2011.
[324] Toeka, "Illegal Mining"
[325] Toeka, "Illegal Mining"

control over the population to the point that they assert themselves above the government in that region. Government intervention has been ill-equipped to control the movement of militia groups and negatively impacted the lives of miners economically.

On September 2011, the government introduced a mining ban in North Kivu, South Kivu and Maniema as an attempt to eradicate violent exploitation in the hands of militia controlled mines. What the ban did not account for was the dependence on artisanal mining in those regions. The provincial minister of mines in North Kivu argued that the mining sector ought to be cleaned to ensure that violence is not nourished any more by the abundance of raw minerals, and an important addition to his words was the need to construct social infrastructure that would allow local people to benefit from the wealth of minerals.[326] However the outcome of this clean up resulted in thousands of people who survived on the mineral trade losing an important source of revenue. The blind spot of government is the inability to link poverty and artisanal mining, because the intersection of artisanal mining is too closely tied to conflict and armed militia exploitation. Government soldiers in the area have been instructed to block access to mineral-rich areas, prevent the exploitation of mines by people living in the region and disrupt the buying and selling of illegal minerals by traders. However due to the aforementioned links between military and illegal mining, a report from the UN, published shortly after the Walikale attack, suggests that the FARDC, the Congolese armed forces, were unable to provide security in the region precisely because some of their officers are colluding with militia groups in order to enrich themselves.[327]

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[326] Toeka, "Illegal Mining"
[327] Toeka, "Illegal Mining"

The assumption is made that a ban on mining in conflict prone areas would lead to a better situation for the government in terms of controlling violence and the people in terms of escaping violence. However, the people in the mining ban regions became further trapped in poverty. [328] While The Congolese government claims that has said that it wants to encourage a more formal mechanism for mining in the country, so that it has tighter control over the revenue that the industry generates, recent targeted actions such as the ban have not addressed the pertinent issues. Which are the protection of ASM sites. These sites and the miners are these sites are the overlooked margins of the mining sector.

So how exactly does illegal trade flourish? It is supported by a large network of people both state and non-state actors who are extremely dependent on the lucrative business. With such a complex and highly organized network of individuals it is unlikely that a few initiatives or regulations can halt existing pockets of illegal trade. Especially since the illegality comes in many forms. The state would have to first provide artisanal miners and traders with better protection and alternatives to shift them away from illicit trade.

Without provisions addressing their protection and the lack of infrastructure available, ASM as a sector will always be pushed to illegal trade and be a highly exploitable sector. This just simply explains exploitation on a domestic level. Internationally, the networks are spread globally, from Rwanda to China to the USA, Germany, Mexico and Korea. Each actor, be they an exporter or importer, has an incentive to attempt to distance their products or ores from those mined in the DRC, despite facts proving otherwise. As a result of far reaching and complex trade networks, internationally the links connecting coltan embodied products to those illegitimate

[328] Toeka, “Illegal Mining”

ASM are obscured. Avoidance of 'conflict minerals' has not led to sufficient tracking systems, but greater lack of transparency, especially from Rwanda and China who are the leading international gateways for DRC mined coltan.

Eliminating illegal trade must begin by addressing the needs at the margins. Having total control of an area as vast and remote as eastern DRC as a priority would be extremely to achieve as there is not enough manpower and administrative reach to implement changes from the top down. According to the government's mining department, there are 27 officially registered quarries and 46 unofficial ones in North Kivu alone.[329] A bottom up community approach that centers the rights of the people and ASM miners would have greater impact in eliminating domestic illegal trade. Recommendations below will addressed the multifaceted approach that must be taken at both a domestic and international to reduce the illegal trade and the support of illegally mined DRC.

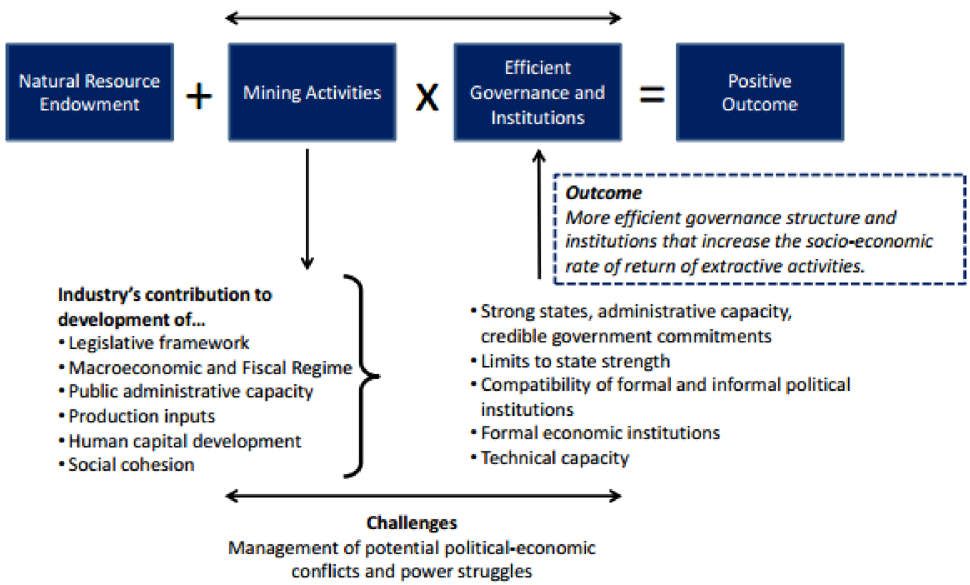
7.3 RECOMMENDATIONS

Solving the issue of natural resource curse in SSA or any other developing countries is not an easy fix. Within the framework of institutional theory improvements must align with the different dimensions of institutions. Stronger regulative enforcement of EITI (The Extractive Industries Transparency International Initiative) should hold greater primacy in the study of conflict resources. While initiatives such as the Kimberley Diamond certificate aim at reducing the trade of conflict and or blood diamonds, many loopholes remains in the regulation of these initiative. Two of the biggest loopholes lies in the dilemma words are taken as fact, and tracking is not made a priority. These two issues are linked because if the source of a resource is unknown

[329] Toeka, "Illegal Mining"

and it is labeled conflict free, industries and consumers will knowingly and unknowingly trade and purchase without verification.

Figure 16: Interactions between mining and governance determine overall outcomes



Source: ICMM (2006).

(Source: Oxford Policy Management. "The impact of mining in the Democratic Republic of Congo Performance to date and future challenges". Oxford Policy Management, 2013).

In the case of conflict minerals such as coltan such a haphazard system exists. Lack of regulations creates massive opportunities for corruption, additionally it corrupts weakened institutions, setting penalties reduces the occurrence of such risks. In addition to regulatory elements which require the efforts of transnational corporations and international governments, domestically governments and non-governmental organizations can work to promote culture of accountability and strengthen civil society. Although this study places government effectiveness at the center of natural resource curse, the solution does not solely lie here.

When it comes to addressing the crucial and complex operations of ASM, transforming the links that connect ASM to international trade is important. In order to do so, links to illegal trade ought to be replaced with links to legitimate large scale mining supported by government and functioning private companies. Right now many legal ASM sites are abandoned due to lack of geological knowledge regarding the sites, lack of funds to invest in developing the sites, inaccessible sites due to conflict, and (in some cases) concessions that were better or equally well suited for ASM exploitation but were granted for LSM activities instead.[330] This leads to the type of isolation that makes ASM prime targets for rebel groups and armed militias. If the DRC government were to put greater effort in supporting and further legitimizing ASM, they would be pulled away from the margins and ASM would be incentive to secure their mining papers and mine in their designated zones. This would also help to eliminate the loopholes through which mined coltan becomes ‘illegitimate’.

One policy change that would enable this to occur would be the elimination of the 2002 Mining Code that does not permit “a perimeter covered by a valid mining title to be transformed into an artisanal mining area”. This limits opportunities for LSMs to work collaboratively with artisanal miners to identify sites on their concessions that are suitable for ASM mining[331]. The government should reexamine the limitations that are set on ASM to identify key solutions that will remove miners and traders from the push and pull of illegal trade. However, it is important to remember that the onus should not simply fall on resource rich developing nations to ensure proper management of resource rents, congruently transnational corporations play an important role in establishing international norms of transparency in sale and purchase of resources. A

[330] Oxford Policy Management, “The Impact of Mining”
[331] Oxford Policy Management, “The Impact of Mining”

multifaceted approach must be taken. Ultimately undoing the curse of natural resources in SSA requires simultaneous address of domestic and international governance.

The Responsibility of International Corporations

This thesis wishes to emphasize the shared responsibility of multiple actors in the global trade of DRC mined coltan. Unlike dominating narratives that isolate the DRC government in the reconciliation process, I would like to invite into conversation the role of International Cooperation in eliminating illegal trade of coltan. To a certain degree, the case can be argued that the DRC mined colan, the conflict mineral, continues to be traded because an international market exists. One that is at times, willing to trade with willful ignorance of the minerals source. A market full of corporations who have done little internationally to raise awareness of the intricate and illegal nature of DRC mined coltan, yet continue to profit greatly. Corporations and conversations surrounding DRC mined coltan must be willing to call to question the political consequences of corporations' involvement with illegal trade. Multinational corporations profit a great deal from conflict trade and from allowing armed groups access to markets and resource wealth.[332] From an international standpoint, these companies should be the frontline actors involved in reducing and regulating conflict trade, according to the rules of corporate social responsibility. The ethical, political and legal duties of corporations to address and eliminate illegal mining of coltan and all nature resources has to occupy a larger space in discourse of natural resource curse.

[332] Dearing, "A Global Approach"

International corporations have been known to take the word of manufactures or exports and importers who declare the minerals to be clean. Often times they are content with the ambiguity of coltan's sources as it neither confirms nor denies illegality in trade. These passive attitudes are no longer enough. By centering the Universal Declaration of Human Rights as a starting point, multinational corporations should investigate how they directly and indirectly contribute to human rights abuses.[333] Companies should be responsible for researching the conflict background and current situation of the country in which they wish to operate. Multinational corporations have the wealth and resource necessary to invest in information and knowledge tracking that would ensure their operations are conducted with the necessary level of transparency.

According to the OECD guidelines, corporations should respect the human rights of those affected by their activities, contribute to economic, social, and environmental progress with a view towards achieving sustainable development, encourage business partners to apply principles of corporate conduct compatible with the guidelines, and contribute to the abolition of all forms of compulsory labor.[334] Doing business in an area like sub Saharan Africa, in an industry like mining which is highly vulnerable to corruption and exploitation and lacks monetary and administrative resources to boost transparency, would further necessitate the commit to the ethical principle outlined by the OECD. Going forth, illegal trade cannot be eliminated internationally if corporations continue to provide an avenue for armed groups to sell their ill-gotten gains for profit. Corporations must be held to a higher ethical standard and be mandated to familiarize themselves with the sociopolitical context of national and international

[333] Dearing, "A Global Approach"
[334] Dearing, "A Global Approach"

human rights laws and treaties.[335] In their own operations, codes of conduct should be implemented in accordance with international and national law, and companies should also organize the needed external and preferably local assistance needed to manage the implementation of labor, safety, and environmental regulations. By establishing favorable working conditions, corporations have the ability to positively contribute to overall economic well-being and influence normative changes, thus limiting one of the driving sources of conflict in the DRC.[336]

International Law: Normative Changes

The thesis ends at the final level of the illegal trade of DRC mined coltan, international law. It is at this stage where the previous recommendations have the possibility of not only being implemented but more importantly being enforced. As it stands today, international law has yet to reform its archaic normative rules on coercively gained natural goods. . The “might makes right” provision that grants the resource right within a country to any sufficiently violent regime is the last major remnant of the old Westphalian settlement in international practice.[337] Wenar cites two revolutions that moved nations away from this system. The first revolution was the universal acceptance of a doctrine of territorial nonaggression. This doctrine says that no regime may seize a foreign people’s greatest resource—its territory—by force.[338] The second revolution was the establishment of human rights. The doctrine of human rights insists that every regime must secure citizens’ most fundamental entitlements to control their own lives. The right of each people to its natural resources lies at the overlap of these two revolutionary doctrines.[339] .Wenar

[335] Dearing, “A Global Approach”
[336] Dearing, “A Global Approach”
[337] Wenar, *Blood Oil*
[338] Wenar, *Blood Oil*
[339] Wenar, *Blood Oil*

rightfully cites the survival of the 'might vs right' norm as a major flaw in the international system. It is a flaw because it leads all domestic attempts at certification and reform to a dead end.

While resource rich countries are punished for not properly managing mines and effectively controlling armed rebels who gain control of resource rich regions, trade continues and the violence perpetuated by coercive mining continues because corporations are not held legally accountable for providing avenues of trade. The powerful actors that gain the most from this dated provision, the international resource corporations, wish to divert attention from it because it contradicts the principles of control over resources that make them rich: the principles of property and contract.[340] When talking about the 'resource curse' consciously as a global society we ought to rethink the location of curse. The curse is not the abundance of resources in sub Saharan Africa, but rather it is location in this invisible system called international normative law. As Wenar declares, no regime, within a country or outside it, should gain the right to control a country's resources merely because it can terrorize the population. The overarching structure of international law does not provide the needed protected for resource rich countries to avoid both external and internal exploitation of their resources, instead it puts a target in their back and corners them. Under this current international system there is no accountability for theft of resources.

Active change would mean establishing legal consequences on the international level for the trade of coercively gained natural resources. The priority in reforming the system of international trade must be to update the norms that govern international trade of natural resources system are

[340] Wenar, *Blood Oil*

in line with the norms that define the modern international order. The first step in improving the prospects of poor people is to enforce the entitlements they already have, this change happened vs previously mentioned by addressing the links between ASM and poverty. Trafficking in a country's valuable natural resources without the people's consent certainly crosses that line, and it must be met with legal prosecution, fines or sanctions for both state and non-state actors who are found to be trafficking.[341] With these tangible barriers in place, the avenue through which illegal mining constantly navigates with ease will be narrowed and eventually closed. Corporations and international gateway countries will be less willing to participate in trafficking if faced with the risk of sanctions and legal persecution. It is with great hope that the time and energy invested into securing illegal trade routes will be put into opening improving existing legitimate routes.

[341] Wenar, *Blood Oil*

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