

# **Mining Reform, Governance and the State in the Democratic Republic of Congo. The traces 'conflict-mineral' policy left behind on natural resource governance in Katanga**

This dissertation deals with the effects of conflict-mineral reform interventions implemented throughout Congo's tin, tantalum and tungsten (3T) mineral areas over the last eight years. The phrase 'conflict minerals'<sup>1</sup> refers to coltan, cassiterite and wolframite originating from mining areas in the DRC,<sup>2</sup> whose extraction, trade or transport is said to benefit armed groups to finance their operations in the ongoing conflict in the region.

These reforms aiming to create more oversight over the Congolese mineral trade in order to prevent its revenues to finance Congo's conflict, have become both applauded and criticized over the years. Some of the policy evaluations have praised the demilitarisation of Congolese 3T mines as a result of the reforms, while others have highlighted their detrimental on the livelihoods of ASM communities.

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

Acknowledging the DRC's complex governance context, where law and order are fluid concepts and the central state has a limited territorial reach, this study puts natural resource governance at the centre of its analysis. It raises questions about how the Congolese state and other governance actors have responded to the request for mining sector reform, and how the reform has affected them. How Congolese state institutions and their agents have picked up the extensive conflict-mineral certification and traceability tasks. And what traces have the reforms left behind on Congo's natural resource governance.

To achieve these research objectives, this study combines insight from the bodies of literature on policy and on governance. Building on a combination of interpretive policy analysis, development sociology and policy anthropology, this research approaches policy as a fluid process with a social life of its own (Colebatch, 1998; Mosse, 2004). It acknowledges the agency of both policy implementers and its recipients to influence the outcome of policy (Hilhorst, 2003; Long, 2001), as well as its multiple and sometimes contrasting meanings (Yanow, 2012). Once such a policy intervention enters into a certain governance order, with its pre-existing logics of action and historically grown power relations (Rubbers, 2013: 9), it provokes a process through which the policy becomes negotiated (Hilhorst, 2003; Long, 2001; Mosse, 2004).

---

<sup>1</sup> Conflict minerals are often referred to as 3T minerals, indicating the metals tin, tantalum and tungsten, processed from cassiterite, coltan and wolframite ores, and gold originating from mining areas in the Great Lakes Region.

<sup>2</sup> Also from the African Great Lakes Region in broader terms

In order to analyse governance, this research takes inspiration from the work of Lund (2006a), Raeymaekers (2007) and Colebatch (2009a), defining governance as a spontaneous and continuous negotiation process through which state and non-state actors organise to manage public resources and accomplish a certain governance order. This process is perceived as an 'open moment' (Lund, 1998: 2) during which the fragile equilibrium of a governance order becomes renegotiated, including a reshuffling of relations and interdependencies, the emergence of regulatory arrangements and the re-attribution of authority.

Through extensive longitudinal data collection on policy implementation in the territory of Bukama from March 2014 to May 2016 this research explores the effects of conflict-mineral reform policies on local governance orders in the DRC. Methodologically, it is grounded in ethnographic tradition, taking a multi-sited political ethnographic approach (Schatz, 2009a; Stepputat and Larsen, 2015). It follows policy as the theme connecting various research sites along the 3T mineral supply chains in Katanga, stretching from the coltan and cassiterite mines of Bukama territory, via the mineral trading hub of Luena, to the mineral export depots and administrative offices of Lubumbashi and Kalemie. In doing so, the research puts every day (Kerkvliet, 2009) governance practices, perceptions and strategies of state officials, mining communities and mineral buyers vis-à-vis these policy interventions at the centre of its analysis.

Chapter 1 to 3 form the introductory chapters to this thesis, and outline the research objective and justification; provide an analytical framework on public policy and governance; and discuss the methodological decisions and ethical considerations underlying this research.

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

Chapters 5 to 7 study the effects of conflict-mineral policy on Katanga's local governance orders, and especially the position of local state institutions therein. Chapter 5 addresses a strikingly paradoxical feature of the reforms, namely that the interventions meant to address conflict in mining areas are, ironically, mostly implemented in Katanga province, which is the least affected by conflict. Studying a group of highly influential public and private actors in the province, the chapter outlines how their collaboration developed in a different direction from what was anticipated by the policy interventions.

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

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

private sector's engagement in natural resource governance and how this has affected the relationship between local state institutions and the mining population.

In studying the effects of conflict-mineral policy interventions on Congo's natural resource dynamics, this dissertation aims to make a contribution to the academic debates:

- on policy analysis;
- on governance in conflict-affected settings characterised by limited statehood;
- and on conflict-mineral policy debate in more general terms.

Lastly this research identified an ambiguity in the reform's objectives. Although conflict-mineral policy development emerged from the shared intention to promote peace and end human suffering in Congolese mining areas, the findings demonstrate that the objectives of due diligence and improved conditions for ASM communities are not always easy to combine. Reform practice seems to have evolved more towards conflict-free sourcing over time. Which raises the question of whether developing a traceable and conflict-free product has received prominence over contributing to improving the situation of the Congolese population.

It has found that, although the conflict-mineral reforms have brought about clearly organised trading chains and consequently more oversight, the reforms have rendered local governance orders more obscure and complex. The introduction of conflict-mineral requirements have significantly increased the role of local state services, demanding these local actors to administrate all mineral trade transactions at every level of the mineral supply chain. As a result this local state apparatus has extended its authority and new locally-accepted but nationally non-recognized arrangements emerged, leading to a plurification of regulatory frameworks at the local level.

By not providing this extended local state apparatus with the necessary financial and logistical support, the central state has passively furthered a predatory local state in 3T mining areas, weighed heavily on local ASM communities in terms of increased tax pressure and harassment by local civil servant. Simultaneously, the reforms deteriorated these communities' position significantly as they redefined trading patters benefitting large-scale international mineral buyers over miners' communities, who saw their access to mineral trade diminish and their negotiation positions deteriorate.

The central Congolese state seems to have benefitted the most from the conflict-mineral reforms, as increased oversight over the 3T mineral trade enhanced its capacity to levy taxes on artisanal mineral (ASM) trade. However, the interest of the central state in these initiatives is not mirrored by its facilitation of *local* natural resource governance. This research found that while contributing minimal investment and effort to the local state's functioning, and leaving private actors in Bukama to finance the local state apparatus and provide public service to ASM communities, the central state managed to maintain its power and ensured revenue collection in the territory. This study concludes that this 'governance by discharge' has not only hampered the establishment of a legitimate state–society relationship, it has also blurred the boundaries

between public and private domains and eroded transparency, allowing for the evasion of public accountability and making questions of legitimacy ultimately complex.

The dissertation concludes by making recommendations for the improvement of conflict-mineral policy, in order to do good without doing too much bad in the same instance. It recommends policy makers to plan more realistically for the roles that Congolese state authorities should play within these reforms, in order to avoid detrimental governance practices to become deepened. It recommends for policy evaluation to go beyond the effects on militarisation in conflict-affected provinces, and acknowledge that the initiatives have left a possibly larger footprint on governance and mining communities' livelihoods in the less conflict-ridden province of Katanga. Lastly, it recommends the reforms to extend their narrow focus beyond supply chains and aim for wider artisanal mining sector reform if it intends to improve the position of artisanal mining communities. Such a broader approach would include: the design of transparent tax regulations for ASM; the promotion of genuine representation of artisanal miners' interests; the development of clear legal frameworks for access to artisanal mineral extraction and trade; and a strengthening of ASM (tenure) rights in Congolese legislation.