

'NE MANGES-TU PAS AVEC EUX?'
COBALT, COPPER MINING AND CORRUPTION
IN DEMOCRATIC REPUBLIC OF CONGO

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Introduction

In the Democratic Republic of Congo (DRC), corruption² as a complex and enduring state system with a 'legacy of predation' (Englebert 2014: 4) is among the main scourges plaguing the overall Congolese administration (Trefon 2010; Kodila 2013). This is widely evidenced in the extractive sector where the 'stakes are so high' (Global Witness 2006: 14).

As an illustration, on 20 June 2016, at the opening of the regional meeting of Africa Transparency International held in Kinshasa, Luzolo Bambi, president Joseph Kabila's special advisor on good governance, anti-corruption, terrorism and money laundering declared that, due to corruption, between 10B and 15B USD was embezzled from public revenues and escaped from the national budget (Radio Okapi 2016).

As corruption occurs in many African mineral-rich countries too (Leite & Weidmann 1999), much of the amount mentioned above was probably siphoned from the extractive sector. While no one knows how this amount was totalled, on 21 December 2017, the U.S. Treasury sanctioned Israeli billionaire Dan Gertler. Believed to be one of the biggest individual mining investors in the RDC, Gertler is a close friend of Joseph Kabila³ involved in corrupt deals in the Congolese extractive industry. Gertler and his cronies succeeded in underpricing mining assets that were sold to offshore companies linked to them (Global Witness 2017).

Sustaining the conviction that corruption in the DRC is institutionalised, condoned by state authorities, and thrives at different echelons of the

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2 This study does not distinguish 'petty' from 'grand' corruption. See for instance Asorwoe 2014. It adopts the UNDP (2006:14) broader definition of corruption 'as the misuse of public office, power or authority for private benefits through various means such as extortion, bribery, nepotism, influence peddling, fraud, speed money or embezzlement' because many of these dimensions were observed in the study area.

3 On 24 January 2019, Félix-Antoine Tshisekedi Tshilombo succeeded Joseph Kabila after controversial elections. For more details, see Englebert 2019.

state (Kodi 2008; Omasombo & Obotela 2006), Luzolo Bambi elaborated that: 'Nationwide, fewer than five persons have been jailed for corruption' (Radio Okapi 2016). In December 2018, the DRC was ranked 161 out of 183 states, thus lagging at the coat-tails of Transparency International's corruption perception index.

Despite a wide array of policies aimed at governing Congo's minerals through transparent models, 'systemic corruption' (Standing 2007: 9) penetrates many stretches of the Congolese extractive sector, especially the mineral supply chain. As recursively documented, corruption persists in this sector because its management by the Congolese government, elites, and civil servants is predominantly opaque, transforming the mineral sector, including the copper and cobalt one – to which another C of corruption can be added – into an important instrument for business deals (Pepe *et al.* 2014).

Across the DRC, several initiatives were designed to address corruption. In 2002, an anti-corruption, fraud, and money laundering commission was created. In 2003, the Commission de l'éthique et de la lutte contre la corruption (Ethics and anti-corruption commission, CELC) was founded, followed by the Observatoire du code d'éthique professionnelle (Observatory of the code of ethics of public officials, OCEP) and the passing of a whistleblowing anti-corruption law on 25 March 2005.⁴ For the extractive sector, a special parliamentary commission (led by Christophe Lutundula Apala) investigated in 2004/2005 the validity of financial and economic (mining) conventions signed during the 1996-1997 and 1998-2003 wars, by both the rebels and the Kinshasa central government.⁵ In 2004, the DRC became an Extractive Industry Transparency Initiative (EITI)⁶-compliant country and became a full member in 2005. Since 2010, the country has been participating in fora held by the International Conference of the Great Lakes Region (ICGLR) on fraud, mineral contraband, and corruption, especially in the artisanal mining sector. On 20 October 2010, the DRC government created a national commission against mineral contraband. In November 2013, the ICGLR set up a regional anti-fraud and corruption committee. Today, some mining contracts are made public. While the list of anti-corruption initiatives goes on, one merit of the present study is to show that corruption is grossly resilient to these initiatives. All of them have been desirable goals in themselves and achieved little.

⁴ Liwanga 2010.

⁵ DRC, Assemblée nationale 2005.

⁶ Initiated in September 2002 at the World Summit on Sustainable Development in Johannesburg (South Africa), EITI is a series of international transparency norms aimed at checking how the revenue from extractive activities makes its way through the government and how it contributes to the economy.

The ambition of this chapter for which qualitative fieldwork was undertaken between 2017 and early 2019, in Haut-Katanga and Lualaba provinces, is to explore how corruption is organised in real terms through the lower-level copper and cobalt supply chain, who are the actors involved, what their practices and narratives are, and how corruption can be addressed. The chapter first reviews the literature about mining, public administration and corruption in Sub-Saharan Africa. Starting from a single event about mineral leakage through the copper and cobalt supply chain, this study examines the practices and narratives of actors involved in corrupt deals through this chain, demonstrating how it is vulnerable to corrupt drift. The study then describes the vast array of policies aimed at governing Congo's minerals through transparent models. The last section discusses why these policies have failed and how corruption can be addressed.

1. Mining, public administration and corruption in Sub-Saharan Africa

Across Sub-Saharan Africa, corruption has been documented in many stretches of public life. There is even a consensus that corruption has become an endemic bane in many post-colonial administrations (Blundo & Olivier de Sardan 2001; 2006). There exist a vast array of reasons identified beyond this socially embedded phenomenon (Blundo & Olivier de Sardan 2006), including a weak legal system and failure in administrative organisation and reforms (Harrison 2001; Anders 2009), patronage networks and subsequent 'clientelist politics' (Allen 1995: 305), the informalisation of public service provision (Hibou 2004) and what Jean-Francois Bayart (1993) broadly calls 'the politics of the belly'.

A burgeoning literature links corruption and the working of African administrations. This has emerged since the 1960s and documents empirically the 'daily functioning' of public sector organisations and bureaucracies (Blundo & Olivier de Sardan 2006; Blundo & Le Meur 2008). Exploring for instance the political economy of reforms in Africa and how these administrations deal with these reforms in a context of structural adjustment programmes applied in the eighties, the literature suggests that these reforms – including in the extractive sector – were manipulated by African elites for the purpose of power consolidation offering them opportunities to breed corruption and compete for resources through new means (Englebert & Tull 2008). In other cases, corruption may be used as a tool for 'buying one's protection' (Blundo & Olivier de Sardan (2001: 36) especially from administrative hierarchies when money (or other advantages) collected from corrupt deals trickle upwards to them.

In mineral-rich African countries, corruption is rife in the extractive sector, sometimes understood through the lens of the resource curse thesis developed

at the end of the 1980s. Proponents of this thesis argue that an abundance of natural resources causes low economic performance, poor governance, and corruption, undermining countries' development and economic growth (Sachs & Warner 1995; Auty 2001). The study conducted in Sub-Saharan Africa by Kunsten *et al.* (2014) follows this line of reasoning. These authors argue that corruption may stem from natural resources' revenue being easy to control and monopolise for political elites, in turn reducing incentives to provide accountability and transparency.

In the DRC, corruption is part of daily life. It is predominantly associated with decades of state decay (Marysse 2005), failure in organising the public administration (Trefon 2010), the explosion of the informal economy (MacGaffey 1991) and ultimately, the perception of the state apparatus as 'an enterprise of extraction' (Englebert 2014 :11). During the last decades when recurring armed conflicts propelled the Congolese state collapse to its apex, experiments in fighting corruption rarely existed or achieved very little (Kodi 2007: 11). By way of contrast, post-conflict governance reforms paved the way for renewed practices of corruption due to massive resumption of foreign aid that was used by the political elite as a great source of rents (Englebert & Tull 2008: 123). This can also be said for the Katangese extractive sector which experiences reforms, increased privatisation, and massive investments, all of which can be seen as creating major opportunities for corruption.

In former Katanga,⁷ issues regarding corruption, in relationship with the informal economy or the extractive sector's governance – in which state officials and elites play a key role – have been studied by many scholars, NGOs, and think tanks. For instance, a study by Global Witness (2006) focussing on the practices of taxation and corruption in which civil servants are involved in the Katangese artisanal copper and cobalt extractive sector notes: 'There is not even any pretence that these payments constitute official taxes or that they contribute to the budgets of the departments concerned'. Rubbers examines corruption as a 'social system' (Rubbers 2006: 123) combining social relationships and personal identity of people engaged in informal economic transactions. Cuvelier and Muamba (2013) show the manner in which, mainly due to corruption, traders and civil servants circumvent official export procedures at the Kasumbalesa-based *guichet unique* (unique counter desk). In 2017, the Carter Center documented in detail several practices of corruption that shaped the contractual privatisation of the Générale des Carrières et des Mines (Gécamines).⁸ In a country like

⁷ In July 2015, Katanga was divided up into four new provinces: Haut-Katanga, Haut-Lomami, Lualaba and Tanganyika as part of a nationwide decentralisation policy.

⁸ Carter Center 2017. For more on Gécamines, see Rubbers 2006.

the DRC where many laws and reform initiatives have been promulgated or implemented in order to address corruption and the transparency of the mineral trade, focussing the analysis on civil servants offers the advantage of moving beyond a mere imagery of predatory state agents. This allows us to examine the meaning of these laws, reforms, and other forms of regulations for the people in charge of implementing them (Anders 2009; Amadi & Ekekwe 2014).

This chapter centres on the question of how corruption is organised through the copper and cobalt supply chain, in other words from the mining concessions to the Kasumbalesa border post. This dimension is not sufficiently taken into in the body of literature mentioned above. By exploring the practices, inherent *modus operandi*, and the narratives of actors involved in corrupt deals, this study will contribute to debate about corruption as one dimension of the Congolese public administration, especially in the extractive sector which has been experiencing initiatives of reforms for about two decades now. This study argues that, rather than considering mining reforms as a driving force for an efficient governance architecture of the extractive sector, these reforms have become an opportunity for opaque deals by civil servants who are resilient to them and adapt to mechanisms set up to control minerals' flow.

2. Challenges of studying corruption

Studying corruption poses some methodological challenges. On the one hand, practices of corruption are, at the very least and even by definition, hidden and characterised by great secrecy. On the other, corruption may involve a wide range of actors. This brings up the tendency for people to protect their socio-economic interests by concealing information on their practices, social or financial connections. In Kolwezi, during an interview with one civil servant from the *bureau minier isolé*, his superior wondered: 'I hope that you are not leaking out all the information about our state agency to this researcher'. Thus, the degree to which individuals are prepared to volunteer information may vary. To address this problem, researchers should rely on competent research assistants locally connected to local stakeholders.

A related challenge is that even if practices of corruption by government officials can be demonstrated, it is difficult to establish their causal chains, for instance from the mining concessions to a border post. In his study entitled *Meeting the challenges of mining in Africa*, Matt Pascal (2018: 7) argues that 'corruption is spoken about widely, but often hard to prove' and quantify because people involved in it may rely on various strategies to benefit from mining activities.

Collecting data on corruption risks putting both the researcher and the informants in real danger. The researcher deals with sensitive issues such as

bribes in which people in positions of authority (e.g. ministries, provincial governors or military officials) may be involved. Informants, for their part, who often participate in the 'circle of corruption that siphons Congo's natural resources' (Carter Center 2017: 11) are socially and especially hierarchically tied with the authorities, acknowledging their practices and able to provide evidence of them. In this vein, when leaking information, interviewees may endanger their own work. In Lubumbashi, when I asked one civil servant from the Centre d'Evaluation, Expertise et Certification des substances minérales (Centre for Evaluation, expertise and certification of precious and semi-precious mineral substances, CEEC): 'Who actually benefits from the lack of transparency in governing the Katangese copper and cobalt sector', he replied: 'I'm giving the names of some high-ranking officials but I strongly advise you not to enable people to trace the source of this information to me'.

In Lubumbashi, Likasi (Haut-Katanga), and Kolwezi (Lualaba), this study relied on qualitative methods for data collection which was triangulated and took place with longitudinal field observations during a period of about 14 months, between July 2017 and January 2019. This long-term immersion enabled me to establish relationships of trust with key mining actors and gave me access to crucial information. In-depth interviews were held with state officials at 4 check-points (Lwambo, Buluho, Lubumbashi, and Kisanga) through the copper and cobalt supply chain. At several occasions, I visited these locations following a multi-sited research approach that involved 'following people and things' (Marcus 1995). Rather than collecting data on the *transitaires* (or forwarding agents) involved in export activities of extractive companies, the study paid special attention to the activities of individual civil servants appointed through the copper and cobalt supply chain, due to their permanent presence and role in monitoring the transport of minerals through this chain.

At these check-points, people were not always outspoken about corrupt practices. I thus organised informal conversations outside government officials' working offices. When meeting with truck drivers, predominantly from Tanzania at Golden Hotel (Lubumbashi), they often told me: 'If someone cares about corruption by Congolese state officials, this person risks getting sick'. These off-work interviews were useful in triangulating the information collected at check-points. In other cases, for instance in July 2018, I participated in a meeting about transport conditions between the DRC and adjoining countries held at the Haut-Katangese Governor's cabinet where one among my key informants introduced me as an expert at the Division provinciale des transports (provincial transport service) that he was leading. During such encounters, I opted to remain very discreet to avoid being noticed as an academic researcher collecting data on corruption.

3. Flashback of complex practices

Starting from 2015, with Congo's copper production hovering around 1 million tonnes (ITIE 2017), the country was the largest producer in Sub-Saharan Africa. Yet corruption in the Congolese extractive sector has also been increasingly reported (Global Witness 2017), raising doubts about the accuracy of the estimated mineral production and its contribution to Congolese welfare in a country that does not have strong traditions of transparent models of minerals' governance (Carter Center 2017).

A stark event demonstrating this doubt and the complexity of corruption in the extractive sector was the visit of Nazem Nazembe, the Haut-Katangese provincial minister of infrastructure, at Kawama, a mineral truck's check-point near Lubumbashi. There, on 4 December 2017, Nazembe inspected the rehabilitation work on the main road connecting Lubumbashi to Likasi. During his visit, he asked one civil engineer conducting the shovelling job: 'Why is this road often bumpy?'. The engineer replied that: 'The main reason for this is a habit of excessive tonnage of trucks transporting minerals from the mining concessions to the Kasumbalesa border post. Instead of carrying and declaring an official weight, the trucks' loads are often under-reported.'⁹

This is quite surprising because various control mechanisms for checking and approving minerals trucks' consignments exist across Haut-Katanga and Lualaba provinces. For instance, a number of *guichets uniques* (single desk counters) – aim at standardising tax collection and minerals' trade – function in Kolwezi, Lubumbashi, and at the Kasumbalesa border post with the idea of centralising extractive companies' declarations of minerals and tax payment. In addition, minerals destined for exportation have to be analysed and officially approved by at least 4 state agencies: the Office congolais de contrôle (OCC, or the Congolese control office), Commerce extérieur (Department of external trade), Office des douanes et accises (Office of customs and duties, OFIDA) and the Division des mines (Mining service).¹⁰ From Kolwezi (Lualaba) where most companies extract copper and cobalt, to the Kasumbalesa border post (302 km), Katangese provincial authorities set up 4 check-points (Lwambo, Buluho, Lubumbashi, and Kisanga) where more than 120 government officials daily check compliance of minerals trucks' consignments with state regulations (e.g. tonnage, tax payment and mineral radioactivity), before minerals can reach Kasumbalesa for exportation.

⁹ Interview with a journalist of Television Malaika, Lubumbashi, July 2017.

¹⁰ Yet, many other state entities are also illegally present at various stages of the mineral supply chain, including the Agence nationale des Renseignements (Intelligence service, ANR), the police, civil servants from the anti-fraud unit, etc.

The outcome of Nazem Nazembe's visit at Kawama can be seen as an interesting marker of corruption gnawing the Katangese copper and cobalt sector. Following the road-repair engineer's claim, Nazembe randomly selected one truck's driver – allegedly owned by Congo Dongfang International Mining (CDM).¹¹ He asked the driver whether he could show his shipping manifest. It was mentioned that the truck transported 20 tonnes of copper. The manifest was issued by civil servants from the Division des mines and cross-checked by their OCC colleagues in the CDM's mining concession in the neighbourhood of Likasi, then approved by another Division des mines staff member at Kawama. After scrutinising the tonnage on the truck, Nazembe suspected the load was overweight and thus ordered other civil servants to re-weigh the truck. What a surprise: the truck contained 35 tonnes of copper. The driver and the Kawama-based civil servant who checked the shipping manifest were arrested and jailed in Lubumbashi. Three days later, both were released and returned to their job after a fanciful investigation by the Lubumbashi-based office of the Police des mines et hydrocarbures (PMH). Such an investigation shows how impunity allows individual actors to use their administrative power to pursue opaque agendas outside the scope of normal procedures.

Explaining how corruption is organised along the Katangese cobalt and copper supply chain, the next section discusses three main Kiswahili and French lexicons mostly used by civil servants involved in corrupt deals. These lexicons are namely *frapper* (to hit, strike or stamp), *kufunga macho* (to turn a blind eye), and *kukata milomo* (to cut the lips). The section shows that these three lexicons structure the narratives and practices on corruption developed at many levels of this chain, especially at the mining concessions, at check-points and at the Kasumbalesa border post, to such an extent that the logic behind these lexicons penetrates the working of state administration and the everyday governance of mineral trade.

4. *Frapper, kufunga macho and kukata milomo*

Mining concessions: Frapper

Corrupt practices around the lexicon *frapper* first thrived in and from the mining concessions. In the study area, many well-informed sources reported that¹² inside these concessions, in order to obtain counterfeit documents,

¹¹ CDM has been based in Katanga since 2006 as a subsidiary of Zhejiang Huayou Cobalt, a Chinese mining company and one of the largest cobalt processors in the World. CDM has been involved in many suspicious deals in the Katangese minerals' sector. See for instance Amnesty International 2015.

¹² Interviews with ANR and *Division des mines*' staff members, Kolwezi and Lubumbashi, December 2017 and July 2018.

company staff members, ordinary workers (like truck drivers) or security forces (Agence nationale des Renseignements, ANR; Police des Mines et Hydrocarbures or mining police; and Republican Guards) often closely liaise with government officials (of the Commerce extérieur [CE, department of external trade] and Office Congolais de Contrôle [OCC, Congolese Office of Control] and Commissariat Général à l'Énergie Atomique, CGA) designated to issue these documents or to check trucks' consignments before these leave the mining concessions. Because extractive companies or their forwarding agents are able to *traiter* (deal with, negotiate or corrupt) with those civil servants, these companies provide them with miscellaneous fees and other forms of financial compensation.

When performing fraudulent operations, government officials resort to many tactics. They may deliberately mention copper instead of cobalt on the shipping consignments, undervalue the radio-activity of these minerals – which should certify that they do not exceed the legal limit as mentioned before –, lie about the number of trucks transporting minerals, or underestimate their declared value and weight. For example, official documents issued by the CE, OCC and the Division des mines may mention that a given truck transports 15 tonnes of copper or cobalt but, in reality, this truck transports 20 tonnes of these minerals. Before the truck reaches the 4 check-points along the route from Kolwezi to the Kasumbalesa border post, state-stationed government officials at mining concessions rely on two practices. They first call their colleagues based at the check-points about the existence of about 5 or more tonnes of minerals (known under the name of *marge* [or surplus]) carried out by the truck but not mentioned on the consignment sheet. Second, to allow the overweight truck to be easily recognised by their colleagues at the other check-points, these concessions-based state officials are able to *créer* (invent a trick) by putting specific *consignes* (kinds of codes or markers); for instance a loose figure or an additional stamp on the delivered document, on the top right or left hand corner of it. As one respondent in Likasi remarked: '*Akili ya batu ilisha refuka juu ya kupata franka. Pale akili yako inaiisha njo ya bengine inanza*'¹³ ('People's intelligence is well-developed for the search of money. Where your cleverness ends is where others become more creative').

Compounded, these sets of practices locally known under the familiar lexicon *frapper* enable extractive companies – many of which purchase minerals extracted by artisanal miners – to export more minerals than are officially declared. On the other hand, people from the many agencies involved in the scam are able to financially earn informal and illegal payments on the deals. As Global Witness (2006: 14) notes a decade ago:

¹³ Interview with civil servants from *anti-fraude* and OCC, Lwambo, July 2018.

‘There is not even any pretence that these payments constitute official taxes or that they contribute to the budgets of the departments concerned’.

Check-points and border post: Kufunga macho

Check-points where the *pont-bascules* (weighbridges) can be found and where truck drivers pay the *taxe-péage-route* (road toll)¹⁴ and the Kasumbalesa border post (85 km from Lubumbashi) are important areas where corruption is rife. There, a number of civil servants (*contrôleurs*) are designated to check compliance of truck consignments with official regulations, for instance, whether these trucks carry the declared weight of minerals. As earlier noted, civil servants at check-points had received *consignes* from their accomplices at the mining concessions where the trucks originate. Overall, these *consignes* enable those civil servants to select and recognise which trucks are part of their fraudulent operations. Crucially, the *consignes* are important markers that push those civil servants to *kufunga macho*, regarding what may be wrong on the trucks’ consignments and to let them through to other check-points, then to Kasumbalesa. In 2006, Global Witness documented similar practices, acknowledging that ‘in a number of cases, trucks arriving at the checkpoints or at the border have been found to be carrying loads which did not correspond in quantity, quality or levels of radio-activity to the information on the accompanying certificate’ (Global Witness 2006: 18).

In case the deal was not settled at the mining concessions, truck drivers whose companies are involved in corrupt practices pay fees to civil servants in a very elaborate way. Acting as ‘administrative brokers’ (Blundo 2006: 809), those drivers pay the fees depending on the type of minerals transported (copper or cobalt), their nature (*concentrés* or not) or the number of trucks not declared but in surplus (*marge*). Once at the first check-point (e.g. at Lwambo), these drivers pay a certain fee to only one person (*contrôleur*). Following the principle stating that *les loups ne se mangent pas entre eux* (‘wolves do not eat each other’, implying that people involved in corruption have to cooperate to make it successful),¹⁵ the amounts collected at this check-point are ‘reported’ daily to the other state services based at the check-point, after these amounts are totalled by 5 or 6 *contrôleurs*, each representing one of the services present. On other occasions, the civil servants keep the money they collect for themselves. From Lwambo to Kasumbalesa via a Lubumbashi-based *guichet unique*, people are informed of the number of *marge* in circulation and of how much

¹⁴ In former Katanga, Moïse Katumbi instituted the *ponts-bascules* and *péages routes* in 2008.

¹⁵ On similar accounts, see Diouf 2002.

money was paid in the mining concessions or at the first check-point. As corruption is a ‘sharing mechanism’ (Kodila 2013: 6), every two days, the amounts collected are shared between civil servants appointed upstream (in the mining concessions) and downstream, that is at the Lubumbashi and Kolwezi-based *guichet unique*, at the other check-points, and at the Kasumbalesa border post.

This account suggests another perception of the Congolese civil servants. Even though Trefon (2009: 17) argues that ‘They [civil servants] embody pettiness and misery especially those at the bottom of the administrative hierarchy’, some civil servants working in the mining sector are well-off. Experiencing misery depends on the sector of activity, opportunities of corruption a given sector may offer, and the manner in which those civil servants operate, collude and ‘eat’ (or share the money collected from bribes and other forms of kickbacks) with their superiors. This may explain why one state inspector supervising mining activities (including the act of corruption) at the *bureau minier isolé* de Kolwezi said: ‘*niko mutu ya ba chefs*’ (‘I’m protected by my superiors’), adding that: ‘People often denounce me to these chiefs but the accusations often fail because I render them too many services’. Yet, at many of these check-points, it was also reported that, when sharing the spoils collected from corrupt deals, conflicts between government officials often broke out. One civil servant from the OCC interviewed in July 2017 at Kawama lamented:

‘Corrupt practices involving government officials are very common here. However, when it comes to sharing the amounts earned from extractive companies, conflict often occurs. Some among us complain about an unequal distribution. Given that they are often the ‘eyes’ or informants of their *chefs* (superiors), those civil servants inform them in detail about what happened at the check-point. Otherwise, they risk losing their jobs because their *chefs* would accuse and sanction them for not protecting their interests.’

Thus, civil servants scramble to collect illegal fees from extractive companies while, at the same time, trying to protect their jobs. In this sense, corruption as a marker of loyalty is used in a pre-emptive way. This resembles what Blundo and Olivier de Sardan (2001: 36) observe in West Africa where people rely on corrupt practices not only because it shapes their everyday public life but also to ‘buy protection’ for themselves by preventing other people from harming their lives.

Everywhere: Kukata milomo

Another term surrounding corruption is *kukata milomo* (to cut the lips), in the sense that a corrupt civil servant is unable and/or forbidden to talk about illegal practices and earnings. This term, related to the image of someone eating, is ‘used often in Lubumbashi (and many other African countries)

to designate the embezzlement of funds' according to Petit and George Mulumba (2005: 477). Sometimes people designate corrupt officials as people who *balishalambula chumvi* ('they have eaten salt'), meaning that they are unable to speak about the illegal financial advantages provided by their administrative position. This conviction is particularly true in the extractive sector where both practices of petty and large-scale corruption have become 'something banal' (Blundo & Olivier de Sardan 2001: 35) even for high-ranking state officials. One interviewee elaborates:

'The interface between extractive companies and government officials is the worse side of my experience as a consultant for many companies. On 22 December 2017, when Joseph Kabila unveiled the revamped Générale des Carrières et des Mines (Gécamines) Head office in Lubumbashi, one high-ranking government official from the national mining ministry wondered: '*Ne manges-tu pas avec eux ?*' (literally, 'Are you not "eating" with them?' [i.e. extractive companies]. I was so upset that this government official could routinize corruption to such an extent that I was unable to answer his question' (Interview with Prof. Kalaba Mutabesha, Université de Lubumbashi, July 2018).

The term *kukata milomo* is by and large closely linked to the two previous registers. Employees appointed at mining concessions or at check-points can *frapper* and *kufunga macho* because they must 'cut the lips' of their superiors in order to protect their jobs and prevent being shifted from or lose them. Thus, these employees evolve in an environment of conflict and competition for extra revenue with their colleagues because they must financially *rapporter* (provide a financial kickback) upwards to their chiefs. The variable practices of *rapporter* are thus designed as *mayi ya kunywa* (drinking water), Bukari (flour food), *unités* (communication fee), transport, etc. One respondent put it simply: '*Sans frapper, kufunga macho na rapports, pas de chef* (Without hitting, turning a blind eye and reporting, no chief)'. Sometimes, these *chefs* do not wonder the 'reports' come from'.¹⁶ This economic power game and relation between the chiefs and their subalterns weakens and distorts the normal functioning of the administration. People are mostly concerned with the pursuit of rents rather than working for the public interest. This also explains why at some check-points (like in July 2017 at Kisanga), civil servants adopted a quasi-radical tactic of predation. They deliberately damaged the local weighbridge in order to *effacer les traces* (erase all signs) that would allow one to discover any fraudulent activities with extractive companies.

¹⁶ Interview with a staff member of Minerals and Metals Group (MMG), Lubumbashi, August 2018.

Ultimately, the expression *kukata milomo* affects the perception of and impacts on the working of the mining administration. Staff members of many extractive companies are able to use this administration as a tool. In many instances, some companies seem to wield more power than the state because their staff members have bribed government officials and can bypass or oppose their decision, hampering the normal functioning of the state administration. During an interview with one employee of Chemical of Africa (Chemaf),¹⁷ he explained how in January 2017, a Chemaf director declared through Lubumbashi-based media that ‘Chemaf’s employees can go and complain wherever they would like, no solution will be found to illegal dismissals from the company because all Katangese authorities are in the company’s pockets’. None of the government state officials reacted to this declaration and Chemaf has been conducting business as usual.

5. Stamping out corruption has lost its way

In Haut-Katanga and Lualaba, addressing corruption has been ancillary to efforts deployed to making the extractive sector transparent. It is often reported that government officials have been involved in corrupt deals.¹⁸ One major reason is the fact that many state entities were created in these two provinces with the intention of increasing tax collection from the extractive industry rather than for stamping out corruption of civil servants *per se*.

The first stark policy geared towards tax collection is the often hasty creation of *guichets uniques* by the Kinshasa government and the Haut-Katangese and Lualaba provincial authorities. On 11 November 2011, during a visit in Lubumbashi, Joseph Kabila inaugurated a modern *guichet unique* at the Kasumbalesa border post. There, per day, between 150 and 200 trucks transporting tonnes of copper and cobalt for exportation cross this post to Zambia. The objective of this *guichet unique* was to reduce the number of state services involved in export procedures and transactions, to make these much easier and more transparent, and to curb corruption and the often reported fraud of merchandise. Yet Cuvelier and Muamba (2013) observe that, rather than improving these procedures, this *guichet unique* fuelled corruption and competition between state agencies. Similar accounts exist in Kolwezi where the Governor of Lualaba Muyej Mangez created a provincial *guichet unique* earlier in 2017 with the aim of standardising tax collection from extractive companies. However, instead of functioning under the Direction des Recettes du Lualaba (DRLU), this *guichet* is

¹⁷ Chemaf is a subsidiary of Shalina Group, an Indian corporation. In 2001, the company acquired several mining concessions in Katanga and built the first processing facilities of Chemaf in Lubumbashi.

¹⁸ Congo Research Group (CRG) 2017.

managed within Mangez's cabinet by his younger brother. This situation pushed many observers to flag that conflicts of interests around the management of this *guichet* cannot be avoided because Muyej Mangez had the upper hand in its everyday functioning, by simultaneously being the tax collector, authorising body, and true manager.

Other measures followed the administrative decentralisation process. In 2008, Moïse Katumbi (the former Governor of Katanga), created the Direction des recettes du Katanga (DRKAT, decree no. 0004 of 25 September 2008), after imposing a law that required all extractive companies to pay two taxes, namely the *taxe voirie et drainage* and the *taxe sur les concentrés*. The idea behind the institution of these two taxes was to bypass the Kinshasa government which withheld much of the revenue from extractive activities, preventing the Katangese provincial government from keeping 40% of the national tax revenues right away (i.e. at the source) for development projects. An NGO report on the management of these taxes raised doubts about their efficiency.¹⁹ In July 2015, DRKAT became the Direction des recettes du Haut-Katanga (DRHK). On 4 December 2015, Richard Muyej, the then special commissioner of Lualaba created the Direction des recettes du Lualaba (DRLU, decree no. 20/15/002/CS/P/LBA). As autonomous provincial tax revenue authorities, both DRHK and DRLU issue *notes de débits* (invoice slips), calculated according to the tonnage of minerals to be exported and allowing mining companies to pay taxes before exporting them.

Overall, the objective of joining earlier mentioned minerals' fora (e.g. ITIE or ICGLR) and the creation of all these governance policies and entities – the varying control mechanisms in terms of *direction des recettes*, checkpoints and *guichets uniques* – have apparently created a certain imagery of minerals transparency. In reality, these policies and entities have also provided new scope for patronage opportunities and corruption. Empirical data pertaining to this article have contributed to this understanding. The practices and narratives of state actors described above show that all these measures have had no effect on levels of corruption at the local level. This lends support to Global Witness (2006: 14) who consider corruption to be 'the single biggest problem affecting the mining industry [because] almost all the illicit and abusive practices in the sector have their roots in corruption'. This observation also suggests that even though it may be arbitrary to put all civil servants (or mining companies) in the same basket of corruption, it is difficult to identify those who are not involved in it.

¹⁹ Initiative Bonne Gouvernance et Droits humains (IBGDH) & Action contre l'Impunité pour les Droits humains (ACDH) 2018.

6. Is minerals' transparency 'a mute's dream'?

Many interviewees raised the above question. One of them wondered whether: 'transparency of the Katangese extractive sector *ni ndoto ya bubu* ('resembles a mute person who dreams he can speak')',²⁰ conveying that any effort to fight corruption is doomed to fail. Confirming this belief during a visit at Kasumbalesa on 17 March 2017, the national Minister of Finance Athanase Matenda Kyelu compared the local practices of fraud and corruption to a long-standing and 'real mafia combining document counterfeiting and physical fraud of goods' (Congo Forum 2017). The failure of measures aimed at addressing corruption also suggest that there are no easy solutions to fight it in the DRC.

However, in the search for efficient solutions, we build on the idea that anti-corruption measures focussing on the copper and cobalt sector suffer from three fundamental flaws that need to be addressed. First of all, these measures are so variegated, too general and ultimately vague and elusive. As a result, they are hardly resource-specific and do not differentiate the contexts and characteristics of mineral extraction. In Congo, every mineral ore is mined and traded in specific economic contexts and involves a number of actors. Haut-Katanga and Lualaba for instance experience burgeoning privatisation of extraction, subsequent financial investments, and increased globalisation following the demand of copper and cobalt. All of these ingredients participate in a vast enterprise of plundering and looting by both Congolese elites and foreign overseas companies. Such an environment may offer room for manoeuvre for corrupt deals. In his study, Philippe Le Billon (2014: 773) argues that 'resource wealth can motivate, entrench and reward corrupt practices, notably because of the large scale of revenues involved, the long-term impacts of contractual arrangements, and the discretionary power of government officials'. If this idea is to be taken into account, Haut-Katanga and Lualaba deserve tailored and narrowed measures to combat corruption through its copper and cobalt supply chain.

It must be borne in mind that, apart from a lack of political will (Kodi 2007) and the complexities of political culture (Trefon 2010) as the main factors beyond the failure to address corruption and the functioning of the Congolese administration in general terms, this study has pointed to an persistent confusion lying between initiatives for tax collection (e.g. the series of *guichets uniques*, weighbridges, *péages-route* posts, etc.) and real corruption-solving mechanisms. Such mechanisms should exist. One may conclude that many of the initiatives taken and the entities designed (including at the national and sub-regional level) to seemingly address

²⁰ Interview with a member from civil society organisation, Kolwezi, May 2018.

corruption were designed to confer to the extractive sector the mere label of transparency rather than to tackle corruption *per se*. As one interviewee points out: 'When collecting data on the transparency of the extractive sector, we do not address corruption directly to avoid offending state agencies and their staff members participating in the ITIE process.'²¹ This is quite surprising because one would expect that the ITIE reports explicitly issues of corruption, something rarely (or only implicitly) done.

Finally, who should take the lead in dealing with mining and corruption? The evident failure of the initiatives taken puts a weird silence on this question, notably because many of these initiatives were driven by and/or often designed in response to pressure from Congo's development partners rather than genuinely originating from and devised by the state. Thus, if policymakers are keen on addressing corruption in the extractive sector and forging a newly endorsed culture of accountability, impunity and non-corrupt justice apparatus, they must help bring about – however daunting the task – a real debate about mining and corruption within Congolese society. As one well-informed interviewee remarked:

'One major outcome pertaining to efforts to make Congo's minerals transparent is that, unlike fifteen years ago, many actors (civil society organisations, entrepreneurs, think tanks, etc.) participate openly in public debates about issues, including rampant corruption, shaping the Katangese minerals' governance.'²²

Such a seed for transformation would contribute to better understanding the situation of corruption on the ground, its organizational structure, and how major issues plaguing the mining administration such as inflated staffing at state agencies, and ethnic and political appointees of civil servants breeding corruption can be addressed.

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²¹ Interview with a staff member of a civil society organisation, Kolwezi, August 2018.

²² Interview with the Director of Carter Centre, Lubumbashi, July 2018.

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