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Mining and the scalar transformations of the state in the Democratic Republic of Congo*

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ABSTRACT

This article reflects on the effects of the recent mining boom on the (trans-)formation of the state in D.R. Congo. To do so, it proposes to integrate macro- and micro-approaches to the political economy of mining into a broader analysis of the power practices of actors at different levels of the state apparatus. Taking the copper mining sector as a case study, it explores the various means by which the presidency, provincial authorities and customary chiefs have drawn resources from mining in the period from the early 2000s to the present. This analysis highlights the various resources that state actors at different levels use to assert their authority over foreign mining companies. From a broader perspective, it shows that, although the liberalisation of the mining sector has opened up new revenue opportunities for all these actors, it has not resulted in a significant power redistribution between them.

Keywords – Mining, Reforms, State, Scale, Copperbelt, DRCongo.

INTRODUCTION

Since the 1990s, the World Bank has pushed African countries endowed with mineral resources to take measures to attract foreign investors and revitalise

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the mining sector. For most of these countries, these measures began to bear fruit in the 2000s, with increases in foreign investment and the start of new mining and industrial projects. This article reflects on the effect that this mining boom had on the state by taking copper mining in the Democratic Republic of Congo (D.R. Congo) as a case study.

Mining in the Congolese copperbelt has long been under the control of one large company – *Union Minière du Haut-Katanga* (UMHK) and then, following its nationalisation in 1967, the *Générale des Carrières et des Mines* (Gécamines) – which numbered among the world's 10 leading copper producers before declining at the end of the 20th century. To address the situation, the World Bank pushed the Congolese government to restructure Gécamines and transfer some of its assets to foreign investors. In 2002, the adoption of a new mining code provided a legal framework for these contracts, and companies of various origins flocked to the region to start new mining projects. Today, more than 20 projects have entered the production phase. In recent years, the copper and cobalt reserves contained in the subsoil of the region have gained new strategic importance due to the growth of the electric vehicle market and speculation over an upcoming 'green transition'. In light of these developments, it is likely that mining in D.R. Congo will continue to grow in the near future.

The control of copper mining has been a critical stake for state-building projects in this region since precolonial times (Herbert 1984). However, it has taken on new significance in the past 20 years, which were marked by the end of a long-running war, the consolidation of presidential power and the implementation of decentralisation reforms. For actors at all levels of the state apparatus, the development of new mining projects was expected to open up new revenue opportunities and allow them to expand their power bases. To study these dynamics, this article focuses on the changing strategies of the presidency, provincial authorities, and customary chiefs towards mining companies. In doing so, it compares the forms of authority they exercise over companies, and highlight how far their practices contribute to changing the distribution of power between the different scales structuring the state apparatus.[1]

This analysis builds on the results of a research project on the micropolitics of work in the mining sector that was carried out between 2016 and 2018. During this period, I conducted around 50 interviews with actors located at different levels of the Congolese state apparatus, including senior officials, national deputies, provincial ministers and customary chiefs. I also had conversations with directors of Gécamines, the executive managers of mining companies and the leaders of cultural associations. These interviews and conversations, supplemented by various secondary sources, form the basis of the three following sections, especially on changes that have taken place in the last decade or so. For older developments, in the 1990s and 2000s, I rely on two previous studies, the first on White businessmen from 2002–2004 (Rubbers 2009), and the second on Gécamines workers from 2007–2009 (Rubbers 2013). Although taking different angles, both dealt with the political economy of mining in the Congolese copperbelt.

MINING AND THE STUDY OF THE STATE

Curiously, the forms of authority that state actors exercise over mining companies, and the scalar transformations of the state caused by mining investments, have received relatively little attention in the political economy literature on mining. In the debate on the resource curse, a number of studies have examined the correlation between the abundance of mineral resources and various indicators about good governance, democracy and conflict (see, for a review, Rosser 2006; Ross 2015). Based on aggregated figures, this type of regressive analysis does not tell us much about state actors' actual involvement in the mining sector and broader state dynamics.

Since the early 2000s, several studies in political economy have sought to move beyond this debate, to take a closer look at the governance of the mining sector and the power relations between governments and firms (e.g. Campbell 2009, 2013; Grant *et al.* 2014; see also Bebbington *et al.* 2018). Particular attention has been paid to how national governments have adapted the institutional framework regulating the mining sector in response to grievances from various non-state actors. The key terms that have emerged from these studies are 'resource nationalism', 'neo-extractivism' and the 'developmental state' (see Saunders & Caramento 2018; Campbell & Hatcher 2019; Greco 2020). In comparison to the literature on the resource curse, this body of research has the merit of bringing to light the political bargains behind mining governance. As Schubert *et al.* (2018: 5) argue, however, it seeks more to assess the governance of the mining industry from a macro and normative perspective than to understand how mining is involved in state formation processes (Hagmann & Péclard 2010).

In light of the aims of this article, the main limitation of this political economy literature is that it strongly focuses on politics at the national level at the expense of the provincial and local levels; the state is equated with the ruling elite, and viewed as a monolithic bloc in its interactions with firms or local communities. It therefore fails to take into account the different forms of authority that state actors use when negotiating with mining companies, and the scalar transformations that mining investments cause within the state apparatus.

Some additional light on the local level is shed by the studies that have looked at the interactions of customary chiefs – who are, in most African states, the single most important state representatives in rural areas – with mining companies (e.g. Negi 2010; Geenen & Claessens 2013; Mnwana 2019). Based on fieldwork, these studies show how chiefs use their traditional authority to draw various resources from companies, and analyse the ambiguous effects that this strategy has on their power position in the local political arena. Their focus, however, remains limited to the local level. Although some studies describe how chiefs activate their network with state actors at the regional and national levels to pressure mining companies, they do not include these actors' strategies in their analysis. They do not allow, for this reason, comparison of these strategies with each other, and to develop a broader analysis of state dynamics.

This brief review suggests that the existing literature is firmly grounded either at the national or local level (Gilberthorpe & Papyrakis 2015). To move beyond this macro/micro divide, this article proposes a multiscalar approach, able to account for the distinctive strategies of state actors at the national, regional and local levels, and to capture the scalar (trans-)formations of the state from a broader perspective. In recent years, several students of the state in Africa have been reluctant to reduce state actors' practices to one same 'neopatrimonial', 'gatekeeping' or 'extraversion' logic (Olivier de Sardan 2015; Beresford 2015; Dorman 2018). Building on this critique, the following sections attempt to single out what is distinctive about the power practices of the presidency, provincial authorities and customary chiefs in their relationships with mining companies in D.R. Congo. This analysis will lead in the conclusion to a comparison of the ways in which the practices of these different actors have evolved in the context of the mining boom, to get a broader picture of the changing power relations between scales inside the Congolese state apparatus.

To be sure, issues of scale are of particular significance in mining politics (Watts 2004; Bebbington & Bury 2013; Engels & Dietz 2017; Allen 2018). As Huber & Emel (2009) point out, the question of who should benefit from mining activities – local communities? the province? the national state? – is, above all, a matter of scale. If minerals are located in a given place, the struggles around the costs and benefits of their extraction involve actors at different scales. I would add that, though they are not limited to it, these struggles tend to find expression within the hierarchical structure of the state apparatus. State actors at different levels, who exert control over nested territories of various sizes, use their authority to make claims over mining activities and derive various forms of benefit for themselves and the people they govern. Such claims can be understood as attempts to prioritise the power scale they represent (Delanay & Leitner 1997).[2]

To the credit of the political economy literature reviewed above, it is a scalar fix favourable to national authorities that has long prevailed in most (post-)colonial countries: the government appropriated the benefits (taxes, royalties, etc.) while local communities bore the costs (expropriation, pollution, etc.) of mining.[3] Following the rise in foreign mining investments over the past 30 years, however, this 'scalar mismatch' (Bridge 2004: 226) has been increasingly contested, sometimes through violent means. In response to these conflicts, mining companies, national governments and international organisations have launched a number of initiatives to increase the contribution of new mining projects to the development of the area where they are established. In Congo, the mining code of 2002 was part of this trend: among other measures, it provided for a retrocession of mining royalties to provincial and local state authorities. Once established in the copperbelt region, most foreign mining companies also started corporate social responsibility (CSR) programmes for the benefit of local communities. It is the dynamics that these developments in the mining sector have brought about within the Congolese state apparatus that the following sections aims to explore.

THE PRESIDENCY: CONTROLLING ACCESS TO RESOURCES

The presidency's authority over the mining sector in Katanga (the Congolese province through which the copperbelt passes) is based on controlling access to its mineral resources. As such, it stems from two measures taken by Joseph-Désiré Mobutu one year after his 1965 coup: the promulgation of the Bakajika law, and the nationalisation of *Union Minière du Haut-Katanga*. By making the state the exclusive owner of the Congolese soil and subsoil, the Bakajika law asserted its territorial sovereignty and offered its representatives a powerful means of attracting new foreign investors and negotiating mining taxes (see, on this apparent paradox, Emel *et al.* 2011). The nationalisation of Union Minière was another necessary step to take control of the copper mining sector, as its concession covered the entire copperbelt in Congo. This takeover enabled the presidency to exert control over its management and to derive revenues from its activities. Renamed Gécamines, the state-owned enterprise became, over the next two decades, the main source of revenues for the state, and the cash cow of the Mobutu regime. The main means used by Mobutu to extract cash from Gécamines consisted in concessioning the sales of copper and cobalt to trading companies and taking a commission on each operation (details on these operations are provided in Kennes 2009; Rubbers 2013; Omasombo 2018).

Over the years, these diversion practices contributed to the gradual decline of Gécamines, which defaulted in the early 1990s. To overcome insolvency, the World Bank recommended that the government sign joint venture agreements with foreign investors to develop Gécamines mines. However, this recovery plan opened a new way for the ruling elite to capture mining rents: brokering the access of foreign investors to Gécamines' assets, and diverting the profits made from these partnerships to the presidency (see Hibou 2004). This method was used at the end of Mobutu's regime in 1994–1996, and then by his successor, Laurent-Désiré Kabila, from 1997–2001. Such deals between the presidency and foreign businessmen were, of course, made at the expense of the state-owned enterprise.

In the early 2000s, following L.-D. Kabila's death and the accession to power of his son Joseph Kabila, the World Bank dictated new reforms to liberalise the mining sector. These reforms were designed to restructure and privatise Gécamines, and to grant the mines it lacked the means to develop to foreign investors. The allocation of these mines was to be organised in a transparent way by the *Cadastre minier*, a politically independent body. In principle, the presidency no longer had any role to play in the mining sector. However, J. Kabila managed to circumvent these reforms to keep a large number of mines in the

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portfolio of the state-owned enterprise and, like his father before him, negotiate their sale to joint ventures with foreign investors. In this way, he sold some of Gécamines' most important assets just before the 2006 election (Global Witness 2006). Once elected, he negotiated with a consortium of Chinese state enterprises a 'resource-for-infrastructure' contract estimated at $6 billion, which provided him with the means to start building the infrastructure announced in his electoral programme (Landry 2018).

After the 2006 election, Gécamines had been stripped of its main known deposits, and the presidency seemed to have exhausted what remained of the copper rent. At the request of the national parliament, however, the government began to renegotiate Gécamines' partnership agreements. This renegotiation process, which lasted from 2007–2011, enabled the state-owned enterprise to increase its share of profits in these joint ventures, and the presidency to claim a supplement to the initial signing bonus (Carter Center 2017). New opportunities for Gécamines and the Kabila regime arose in the aftermath of the financial crisis in 2008, when early investors sought to sell their shares in joint ventures with Gécamines to third parties, mainly Chinese companies. The state-owned enterprise used its right to pre-emptively block these transactions if the buyer did not pay compensation, or to force its partners to retrocede their shares at a negotiated price, and resell the assets involved to new investors. As the legal director of Gécamines told me in 2017, while this blackmail caused several partners to take legal action, each time a financial agreement favourable to the state-owned enterprise was found. Once again, the cash from these transactions was not used to erase the enterprise's debt, including the wage arrears it owes to its employees. It presumably served instead to finance the campaign of J. Kabila's party, the *Parti du Peuple pour la Reconstruction et le Développement* (PPRD), in the 2018 election (Carter Center 2017).

One final dramatic twist: in 2018, President J. Kabila adopted a new mining code which significantly increased the state's mining revenues. The result of a long consultation and negotiation process with stakeholders, this new code appeared to cement the victory of advocacy organisations against mining companies. It remains to be seen, however, how this law will be implemented in practice. This task falls to Félix Tshisekedi, who succeeded J. Kabila as president of D. R. Congo in early 2019. Following his ascension, the new president mainly focused on regaining control over the mining sector. One of his first steps was to appoint a member of his own political party as the head of Gécamines. Two years later, after acquiring a majority in parliament, he was also able to appoint a new minister of mines. In 2021, President Tshisekedi announced that he wanted to audit and renegotiate the mining contracts signed by his predecessor. The history of the mining sector seems set to repeat itself, as if governed by the same political logic since the 1960s.

One thing is certain: the liberalisation of the mining sector has not weakened the power of the presidency. On the contrary, it has opened new revenue opportunities for successive presidents. Having managed to circumvent the reforms designed by the World Bank, they found themselves in a position to negotiate foreign investors' access to Gécamines assets, and to embezzle the profits that the state-owned enterprise derived from these investments. In itself, the practice of selling Gécamines assets to foreign investors is not new. At the end of the 1960s, Mobutu had already awarded two concessions to transnational companies (Young & Turner 1985). But these contracts were of secondary importance, with Gécamines remaining the leading producer of copper in the country and the main source of state revenues. What is new today in the liberalisation of the mining sector is the number of these transactions and their relative financial value. This development has led to significant changes in the ways in which the mining rent is appropriated by the presidency. It no longer derives this rent from Gécamines' sales of copper and cobalt, but from the sales of its mining and industrial assets and the profits made by the joint ventures in which it is involved.

The involvement of the presidency in the copper mining sector has not been limited to the negotiation of mining contracts. In addition to these contracts, members of the presidential entourage (family members, ministers, etc.) have developed various mining-related businesses in the copperbelt. Once again, this practice is not new: in the 1980s, members of Mobutu's entourage were already involved in the negotiation of Gécamines' procurement and service contracts (Rubbers 2013). But the liberalisation of the mining sector from the 2000s opened up new business opportunities for those close to J. Kabila, such as securing subcontracts with mining companies (Congo Research Group 2017). His family members are also present in artisanal mining which developed alongside industrial mining projects from the late 1990s (Rubbers 2013; Omasombo 2018). Several artisanal mines in the Gécamines concession are informally under the control of members of the presidential family. When these individuals are not associated with foreign companies to develop these mines in a semi-industrial way, they are content to control their access using the military, and to charge the traders who buy the products of artisanal miners on site. Like the occupants of the presidential office themselves, the members of their entourage have adapted to the restructuring of the mining sector and developed new rent-seeking practices, more sophisticated and diversified than in the past.

PROVINCIAL GOVERNORS: REGULATING FLOWS AND CONFLICTS

At the dawn of the mining boom, D.R. Congo was divided into 10 provinces headed by governors, appointed by the president, and responsible for maintaining order and implementing government programmes. As such, they represented the highest state authority in the province. At the same time, they were completely dependent on the presidency. Their own power was limited, and the budget they received from the central government was paid irregularly. The provincial taxes that they could levy (building permits, road traffic, etc.) barely covered the running costs of their administration. In Katanga, the presence of Gécamines made little difference. The tax contributions of the state-

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owned enterprise to the province was low, and the governor had no control over its activities. The abortive attempt at secession by Katanga in the early 1960s had prompted Mobutu, and then L.-D. Kabila, to ensure that the governors of this province could not build up an independent economic and political base again.

The mining code of 2002, and then the constitution of 2006, should have changed the situation. Under the mining code, provinces receive 25% of mining royalties paid by the companies established in their territory, and the constitution allows 40% of state revenues to be withheld at source by provinces. In practice, however, the national administration continued to collect taxes and returned only a fraction (between 7 and 15%) to the province. Although this partial retrocession allowed the Katanga provincial administration to considerably increase its revenues during the mining boom, it was not enough to satisfy the ambitions of Moïse Katumbi, the governor of Katanga from 2007–2015. He therefore looked for other means to take advantage of the development of new mining projects and increase provincial revenues.

There is no need to trace in detail Katumbi's career in business and politics (see Kennes 2009). Let us simply note that he made his fortune by winning contracts with mining companies thanks to the support of Augustin Katumba, Kabila's mining advisor, and that his political rise owes much to his practice of 'evergetism' (Veyne 1990).[4] Unlike previous governors, Katumbi came from business and already had a fortune, much of which he spent on infrastructure, donations and sport for the benefit of the people. Among other things, Katumbi invested massively in the T.P. Mazembe football club, which allowed this local club to buy talented players and achieve victories in national and international competitions. These expenditures, coupled with his highly colloquial Swahili and Lingala, earned him enormous popularity.

Once he became governor in 2007, Katumbi's evergetic practices took on a new dimension. He presented a development plan for Katanga, and sought new sources of revenue to finance it. As he could not count on the retrocession of taxes, he turned to the mining companies to ask for advances in kind on the 25% of royalties which were to return to the province. This is how mining companies began to rehabilitate roads and buildings on behalf of the province. Katumbi also instituted two new provincial taxes on the flow of mining products: a road tax in 2008, and a tax on the export of concentrates in 2010. Collected by a new unit, these taxes were principally used to build infrastructure and acquire equipment for public institutions. Finally, the governor asserted his authority on foreign mining companies through personal interventions in their conflicts with workers, artisanal miners and local communities. When people appealed to him for protection, he did not hesitate to meet the angry crowd in person and call foreign investors to order.

This consolidation of provincial power in Katanga was partially broken in 2015, when Katumbi decided to push his luck further. He resigned from office and declared himself a candidate in the presidential election of 2016. The reaction of J. Kabila and his entourage was immediate and radical: they set up bogus trials against the former governor to force him into exile before the election and put into effect the decentralisation process provided for in the 2006 constitution, increasing the number of provinces in the country from 10 to 26. This decision – which involved changing the dimensions and powers of provinces – was intended to divide Katumbi's electoral base and weaken the economic autonomy he had carved out for Katanga. On the other hand, it gave Kabila's PPRD the opportunity to consolidate and broaden its base before the election by distributing hundreds of positions in the new provincial governments to its members and allies.[5]

Indeed, the division of Katanga into four smaller provinces led to a redistribution of power positions in favour of PPRD cadres '*originaires*' (autochthonous) to the new provinces (Englebert *et al.* 2018; Gobbers 2019). Party members vying for positions in the new provincial governments were pushed to oppose Katumbi. At the same time, cultural associations representing the interests of 'tribes' *originaires* to the new provinces pressured the presidency to make sure that these positions fell to their own members. In the new provinces of Haut-Katanga and Lualaba, decentralisation aroused strong political tensions between cultural associations and, within these associations, between pro-Kabila and pro-Katumbi factions.

Far from limiting their action to the new provincial governments, cultural associations (and the governors they helped elect) also exerted influence on all large organisations. After 2016, governors of Haut-Katanga actively recruited members from Sempya and Lwanzo Wa Mikuba (the associations representing Bemba- and Sanga-speaking tribes, respectively) into the provincial administration. They also lobbied for key positions in other state institutions and private companies to be given to *originaires*. In 2019, the expatriate director of a mining project explained to me that the governor had summoned him to dismiss his human resource manager, whom he accused of favouring members of his own tribe to the detriment of *originaires*: 'He told me threateningly that if I did not give him his head, he would do everything in his power to have mine'. Fearing to alienate the governor, and seeing the company confronted with administrative red tape (such as blocking trucks or controlling expats), he gave in and replaced the manager with a Bemba.

In Lualaba, the Lwanzo Wa Mikuba association had a minority position and could not take a similar course of action. In 2017, the association representative in Kolwezi gave me a list of all the key administrative functions in the province, along with the names of the people who held them and the cultural associations with which they were affiliated. According to this list, most functions were held by members of Tshota, the cultural coalition behind the then-governor, Richard Muyej. Lwanzo had to limit its action to putting pressure on mining companies in the former district of Kolwezi, where Sanga-speaking tribes are in the majority. It sent letters, organised marches and requested meetings with expatriate managers to ask that the human resource manager be a Sanga, that the managers of various company departments be members of the association, or that recruitment quotas be imposed in favour of *originaires*. Unlike in Haut-Katanga, these requests were not supported by the governor, and the mining companies could ignore them without fear.

While decentralisation allowed *originaire* political leaders to take provincial power, it did not give them greater autonomy in relation to the presidency. In the case of the four successor provinces of Katanga, it even resulted in an informal recentralisation, to the benefit of the latter (Englebert & Jene 2019).[6] From 2015–2019, the presidency has succeeded in keeping control over the appointment and dismissal of the members of provincial governments, who had no choice but to follow its instructions if they wanted to stay in power. Like the governors of the past, prior to Katumbi's tenure from 2006–2015, the main duty of the new governors was to represent the head of the state and maintain public order. Another parallel with governors of the past is that, unlike Katumbi, the governors of new provinces did not come from business, and had no personal fortunes at the time of their appointment. They had to take advantage of their position as governor to get rich and invest in business activities, including in the mining sector.

A case in point is the struggle that developed among members of the economic and political elite in Lualaba province around the control of Artisanal Mining Zones. When the creation of these zones was announced in 2014, many of the provincial elite participated in the establishment of artisanal miners' cooperatives, which was a legal condition for obtaining rights over a zone. According to the president of one of these cooperatives, however, the richest and most accessible zones were granted to cooperatives created by members of the provincial government, with the ambition of transforming the rights they obtained into exploration permits, and to sell those rights to foreign investors. The other cooperatives, like the one he ran, were only granted unprofitable zones. According to the head of the mining registry office, whom I met in Kinshasa in 2017, most zones in the copperbelt could not actually be developed by artisanal miners for a very simple reason: 'there are no resources'. They are located too far from towns and roads, and the ore bodies are too deep to be reached with simple hand tools.

Generally speaking, it could be argued that mining reforms have given provincial authorities more opportunities to increase revenues and consolidate their political autonomy than the decentralisation process. To seize these opportunities, Katumbi and his successors not only have had to maintain the president's confidence, they have to use the means at their disposal to assert their authority over mining investors. Unlike the presidency, this authority is not based on controlling access to mineral resources. It is first and foremost grounded in controlling the flows of mining products and expatriate workers in the province, at the entry points to the province and along the roads leading to mining companies' concessions.[7] It also rests on the role that provinces play in the construction and rehabilitation of infrastructure networks (such as roads, power or water) which are essential for mining projects. Finally, provincial governors and ministers have strengthened their political authority by intervening in conflicts between mining companies and workers, artisanal miners and local communities. It is through these different means that provincial authorities have attempted to establish themselves as essential interlocutors for foreign investors, and in doing so, develop their margin of autonomy within the state apparatus.

CUSTOMARY CHIEFS: REPRESENTING LOCAL COMMUNITIES

Under the provinces and the territories, the *chefferies* and the *groupements* are the first levels of the state administration in rural areas. Although chosen on the basis of 'custom', the heads of these territorial entities are recognised as civil servants and receive small salaries from the state. Under the 2006 constitution, the *chefferies* are also entitled to 40% of provincial indirect revenues. But since the retrocession provision is not respected by the central government, the provincial authorities, in turn, provide only a fixed and irregularly disbursed budget to the *chefferies*. To cover their personnel and operating costs, the *chefferies* largely depend on local taxes on markets, alcohol sales, charcoal production, etc. As for the *chefs de groupement*, they have no funding at all. If they want to bring development to their jurisdiction, they must seek the support of patrons.

Chiefs have been dispossessed from their land management powers by the state and concessionary companies since the colonial period. The government can award land in their jurisdiction to companies without consulting or compensating them. As long as the land is not ceded to third parties by the state, however, chiefs can, by virtue of their customary authority, grant access rights to individuals. In the context of the mining boom of the 2000s, this has given them the opportunity to demand *droits de terre* (land rights) from companies established in their jurisdiction. These rights consist of an envelope of cash and a list of goods that has to be provided in advance of the 'customary ceremony' that must inaugurate mining operations. During this ceremony, the chiefs invoke the ancestors, who are also the spirits of the earth, and make offerings to them (kaolin, beer, chicken blood, etc.) to ask them to 'open the doors' of the mine for the benefit of investors.

In the opinion of the chiefs I have met, most foreign investors are keen to pay these customary duties. Some even supplement them with more substantial gifts, such as a brick house, a four-wheel drive car, and various benefits or privileges. These may include regular payments of a customary royalty in cash; donating corrugated iron sheets, cows or bicycles; providing the chiefs with medical care at the company clinic; awarding contracts to supply raw materials (sand, stones, etc.) or perform labour (brush-cutting, earthwork, etc.); or recruiting workers proposed by chiefs. Companies may also build infrastructure (schools, clinics, water pumps, covered markets, sport fields, etc.) for the benefit of local communities within the framework of their CSR programmes. As chiefs compare what they get, the most valued gifts, benefits and privileges tend to become the norm in their requests to mining companies. They send letters citing the example of this other company or that other chief, asking the company to pay them a customary royalty, to build them a brick house, or to award them subcontracts.

When they enter the production phase, however, companies respond less and less to these requests: the amount of customary duties for the inauguration of new mines is revised downwards. The gifts made to chiefs become infrequent and symbolic, the job applicants recommended by chiefs are hired less often, the subcontracts that some chiefs obtained are interrupted, and the budget dedicated to CSR programmes is gradually reduced. As a result, the actions of mining companies in favour of chiefs and local communities have not allowed the latter to improve their situation significantly. As the adviser to a chief in the Kolwezi region explained, 'When foreign investors will leave, we will only be left with holes [quarries]. They will not have brought any development.'

The career of a *chef de groupement* in the Tenke Fungurume Mining (TFM) concession provides an illustration of this evolution. When I met him in 2017, he spoke positively of the support the company had given him early in his career. While he was still just a chief's 'son', TFM had paid for his education as an engineer at the university before hiring him and sending him for training in the United States. Following his enthronement as chief in 2008, TFM renovated his house and, at the same time, allowed him to stay in the workers' camp with his wife and children: a privilege he was the only employee to enjoy. He was also granted various benefits and privileges, including that of recommending job applicants to the company. In 2012, however, accused of having taken a bribe on the purchase of a machine, the chief was dismissed and lost most of his prerogatives. Since then, his situation has been no different from that of other *chefs de groupement* in the concession – he has just received corrugated iron sheets on several occasions. TFM promised to award him subcontracts or to give him financial support to establish an agricultural cooperative. But, as these promises went unheeded, his relationship with the company has become a source of growing frustration for him.

This frustration is widely shared among chiefs in the TFM concession although (or because?) this company has often been cited as a model for its CSR policy. The community department reports of the company regularly gave voice, throughout the 2010s, to the chiefs' grievances: TFM does not care about them, and prefers hiring non-*originaires* to the local Sanga. Chiefs frequently expressed their anger to department representatives: they threatened to use their mystical powers against the company by asking the spirits of the earth to make the ore disappear from the mines; they supported the Lwanzo association's actions aimed at expelling non-*originaires* from the company and replacing them with locals; and they showed their solidarity with the artisanal miners who enter the concession illegally to extract and smuggle copper and cobalt – a practice that, on several occasions, led to clashes with the police and acts of vandalism against company property (see Katz-Lavigne 2020).

As a matter of fact, artisanal mining is an important source of income for local people, and chiefs derive various benefits from it. They can demand land rights from artisanal miners in the form of cash, food or bags of minerals. They can also develop their own business in the transport and trade of minerals extracted by artisanal miners. Not so with mining companies. As they have no legal authority over land distribution, chiefs cannot demand royalties from mining companies. Moreover, they could not follow the lead of provincial authorities in imposing new local taxes on mining operations. Their political insignificance is particularly evident when they are confronted with pollution, population

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displacement or the destruction of cultural sites due to mining activities. This was the case for a *chef de groupement* in Lualaba province. When a Chinese company began digging an acid pool near his ancestors' graves, he feared that the earthworks would damage the graves or the acid contaminate them. He wrote a letter asking to be consulted about the work, and to perform the rituals necessary to move the graves and receive financial compensation. But neither the company nor the various state authorities copied into the letter responded to his request.

To obtain money, goods or infrastructure from mining companies, customary chiefs depend on their goodwill and CSR policies. For these companies, the authority of customary chiefs is part of the local 'cultural heritage'. When the mining projects were initiated at a time when copper and cobalt prices were high, foreign investors agreed to make donations to chiefs to ensure peace in local communities and make a good impression on project 'stakeholders' in Congo and abroad (Hönke 2010). With the development of mining projects, however, expenditure on the chiefs was gradually reduced, for two main reasons. First, when mining projects enter the production phase, they no longer need the unskilled workforce that they recruited locally in the early stages. Hence they cannot respond to one of the main concerns of chiefs, that of giving employment to their people. Second, following the 2008 financial crisis, the mining sector went through a series of mergers and acquisitions. In many cases, the new shareholders decided to not continue all the social actions undertaken by their predecessors, breaking the promises that the latter had made to chiefs and local communities.

The benefits that chiefs and their subjects draw from mining companies thus vary according to the projects and the times. When I met him in Lubumbashi in 2018, a *chef de groupement* who had been enthroned the previous year said he was satisfied with his relation with a Chinese investor who had recently started mining operations in his territory. Company representatives had contacted him to organise the customary ceremony to open the mine, and had paid him with a four-wheel drive car and a donation of US$5000. They also asked him for a list of 33 young men who could be hired as mining equipment operators. The chief contrasted the benevolent attitude of this company with that of another Chinese company, which had been established in his territory for a longer time: it did not respond to his requests and did not hire the workers he recommended. However, this latter company, which was a member of the International Council on Mining and Metals (an organisation that has played a key role in promoting CSR in the global mining industry), had built several social infrastructures (schools, clinics, water pumps, etc.) in the territory. In addition, the company from which it had bought the mining project had been generous to customary chiefs in the past. The chief who had preceded my interlocutor had also received a car, and he had managed to get jobs in the project for many of his subjects. This contrast suggests that mining projects' CSR policy depends less on the parent company's international commitments than on their stage of development and profitability.

Overall, the liberalisation of the mining sector and the development programmes put in place by mining companies has contributed to consolidating the authority of the chiefs. Acting as brokers between mining companies and local communities, most have been able to channel various benefits to themselves and their subjects and, in doing so, increase the economic, social and symbolic base of their power. By contrast with the presidency and provincial governors, however, their authority derives less from their position in the state apparatus than from the essentially symbolic power of 'custom' (Hoffman *et al.* 2020). To obtain benefits from mining companies, they depend on the recognition these companies are ready to grant to this form of authority, which itself is contingent on the development phase of the mining project, the company's strategy in the face of reputational risks and the evolution of copper and cobalt prices. For these reasons, and from the discourse of the chiefs themselves, the return generated by their customary capital has tended to decrease since the end of the mining boom in 2011.

CONCLUSION

The analysis developed above suggests that, far from being in a position to impose their diktats onto state representatives, foreign companies that have developed new mining projects in the Congolese copperbelt are caught in power struggles that largely elude them. As they invested colossal funds in a fixed place, they had no choice other than to negotiate the development of their activities with the state actors – at the national, provincial and local levels – having authority over that place. This is, of course, a political game in which they do not remain passive. If they are not already familiar with this type of game, having played it in other countries, they quickly learn its tricks thanks to the intermediation work of foreign businessmen and local fixers (see Rubbers 2009, 2013, 2020). The outcome of this game, however, is always uncertain: behind the mining projects currently in the production phase, which often (but not always) provides considerable profits to shareholders, lies a forest of those that had to be aborted. The main reason for these failures is usually political. From the investors' point of view, Congo appears a complex, unstable and opaque political environment which is particularly difficult to navigate compared with countries such as Zambia, for example.

This article shows that the liberalisation of the mining sector has led to a repositioning of actors at different levels of the state apparatus, and that they have developed new practices to draw revenues from mining. These include bargaining for access to resources, imposing new taxes, demanding social investments from investors or developing business with them. Such practices could be analysed as variants of the same 'neo-patrimonial', 'gatekeeping' or 'extraversion' logic. But such concepts tend to obscure what is distinctive about the means used by the presidency, provincial authorities and customary chiefs respectively. For this reason, it cannot account for the inequalities existing between these actors in gaining access to mining resources.

What is distinctive in the practices of these different state actors derives to a large extent from the forms of authority that they exert on the territory where mining projects are established. The presidency guards the sovereignty of the state over national resources, and retains control over Gécamines' management; governors are vested with the power to represent the state in the provinces; while customary chiefs are also state representatives, their authority is above all founded in a traditional form of legitimacy. These varying forms of authority do not give these three actors the same means to negotiate with mining investors. While the presidency is able to control access to the mining resources themselves, the governors can only facilitate or restrict the movement of goods and people, or assert their authority by intervening in the conflicts that companies have with workers, artisanal miners and local communities. The chiefs, on the other hand, have virtually no leverage over mining companies, which are free to recognise or ignore their authority. That said, foreign investors have no interest in alienating chiefs, who can be strategic allies in conflicts over mining projects – especially those caused by international advocacy organisations.

The power practices of state actors can be understood, from this perspective, as a politics of scale, which contributes to (re-)producing the authority that they exercise on territories of different scales. Taken as a whole, it appears that if the liberalisation of the mining sector has opened new opportunities for all these actors to assert their territorial authority, it has not put into question the presidentialism inherited from the Mobutu regime. While the authority of the presidency should have been weakened by the new mining code and the decentralisation process, in practice President J. Kabila managed to circumvent these reforms to retain control over the mining sector and reduce the autonomy formerly granted to lower power scales within the state. His marginalisation since Tshisekedi's accession to the presidency in 2019 may well redistribute the cards between political networks in the national and provincial political arenas. It is not certain, however, that it will lead to a redistribution of power between scales, to the benefit of provincial authorities and customary chiefs. Neither the reform of the mining sector nor decentralisation has put an end to the scalar fix that is characteristic of the postcolonial state.

If a similar trend can be found in most African countries endowed with mineral resources, variations resulting from the nature of the political system, the legal property rights regime, or the place of identity politics – among other factors – should not be overlooked. In contrast to Congolese chiefs, for instance, some chiefs in the South African platinum belt managed to draw substantial resources from mining companies principally thanks to the control they managed to maintain or gain over community land (Cook 2011; Manson 2013; Mnwana 2019). If anything, this case suggests that the distribution of property rights over subterranean resources is key in the politics of scale around mining projects, and that these politics can lead to significant changes in the scalar structure of the state to the benefit of local power elites.

NOTES

1. The administrative and political organisation of the Congolese territory has undergone numerous changes since the colonial period. However, it has retained the same hierarchical structure. The term 'scale' is used here to designate the three main hierarchical (sub-)divisions of this structure.

2. Of course, politics is never limited to a single power scale (see Schouten 2021). The scaling practices of state representatives are often contested by other stakeholders, who can call on actors or institutions at other levels, and they themselves do not hesitate to activate their political networks at different levels. For reasons of space, however, I will not dwell on these transcalar strategies, to focus on how state actors at different levels use their authority to draw resources from mining companies.

3. In the case of the Congolese copperbelt, an exception must be made for the period of the Katangese secession (1960–1964), during which its leader, Moïse Tshombe, took control of the mining revenues generated by the colonial company Union Minière.

4. Paul Veyne (1990) uses the term 'evergetism' to characterize the practice, for notables in ancient Rome, consisting in investing their personal fortune for the benefit of the city and its people, for example by building monuments, organizing games or distributing money. It has been introduced in the study of African politics by Blundo & Olivier de Sardan (2001).

5. These measures, as well as the political reactions they aroused, provide a good illustration of the transcalar dimension of political strategies in Congo.

6. Things are not about to change from this point of view. From 2020–2022, the new President F. Tshisekedi managed to dismiss most of the governors appointed by J. Kabila to replace them with members from his own political coalition.

7. On the relationship between the assertion of political authority and the control of flows in Central Africa, see Blaszkiewicz (2019) and Schouten (2019).

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