Canada, the Congo, and Why Mining Is Good for Both of Us

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ABSTRACT  Canada is one of the world’s leading mining powerhouses, but in order to remain so it needs access to new mineral reserves - and the Democratic Republic of Congo (DRC) has trillions worth. Due to the scale of the DRC’s mineral deposits, Canadian mining companies have sought to explore and develop assets in the Central African nation. These Canadian firms, however, have been subject to corrupt governments and other issues. In the past, Canadian governments sought to protect Canadian mining assets in the DRC only when they came under attack. That is to say, Canada's approach to foreign policy in the DRC has been reactionary. This paper argues that Canada should take a proactive approach to foreign policy in the DRC by supporting institution building and economic development which will ultimately benefit both Canadians and the Congolese. Canadian mining firms will be able to develop new assets, increasing profits for Canadian workers and shareholders. The Congolese will benefit from stronger institutions, economic development, and the ability of their country to effectively allocate the capital generated from a robust mining sector.

Canada is one of the world’s leading mining powerhouses, but in order to stay that way it needs access to new mineral reserves - and the Democratic Republic of Congo (DRC) has trillions worth. The importance of mining to the Canadian economy has pressured the Canadian government to protect and promote the industry’s interests, at home and abroad. The DRC, with its estimated 24 trillion dollars worth of untapped mineral reserves, presents a golden opportunity for Canadian mining companies. Due to Canada’s interests in the opportunity for mining in the DRC, the Canadian government should support institution building and broader economic development in the DRC for the benefit of Canadians and the Congolese.

This paper will begin with a brief description of Canada’s strategy to foster investment and trade in Sub-Saharan Africa, especially in the context of mining. I will then outline key points in the history of the DRC, including its colonial history and previous policy with regards to foreign investment. I will outline Canada’s policies towards the DRC and determine that the Canadian government has, in the past, sought to protect Canadian mining interests in the DRC. This essay will ultimately argue that Canada ought to strive towards two objectives: to help the government of the DRC stabilize, and to promote policy favorable to the extractive industry in the DRC. In working towards these objectives, both the Congolese and Canadians will benefit.

Mining is one of the most important industries to the Canadian economy. Favorable policies towards mining have created a positive economic environment for mining companies and have led many to be both headquartered in Canada and listed on Canadian exchanges. In 2016, a majority of the world’s publicly listed mining companies were listed on Canadian exchanges, such as the Toronto Stock Exchange (TSX) and the TSX Venture Exchange (TSX-V), and over

60% of mining equity raised was done on these exchanges. These companies, and the mining industry more broadly, contributed a significant \$57.6 billion to Canada’s Gross Domestic Product (GDP) in 2016.

Canada’s prowess in mining paired with the Canadian government’s policies have enabled Canadian firms to become the greatest source of foreign investment in Africa’s mining sector. The position of the Canadian government regarding Canadian mining investment in Africa is one of mutual benefit. On one side, Africa’s vast mineral reserves could be the catalyst of industrialization for African nations, as they have been in other nations such as Chile and Norway, and Canada itself. Canada’s position is that in order to effectively tap into the value of these reserves, Sub-Saharan African nations ought to pursue foreign investment, especially from Canadian companies. In turn, the investment made from Canadian firms would also benefit the companies, their employees, and their shareholders. In the end, Canadian firms gain from the ability to tap into greenfield reserves, while the African nations hosting the reserves can benefit from the “Canadian advantage” – superior mining finance, experience, and a comprehensive corporate social responsibility (CSR) framework – and the opportunity to industrialize.

The DRC has extensive mineral reserves and many Canadian mining companies are looking to expand operations and develop new assets. But the history of the DRC is rife with colonialism, war, and poverty, and not mining investment and development. Government policies and war have prevented an influx of Canadian investment in the DRC for much of its history. And this is a main reason why, despite living in one of the most mineral rich countries on earth, the people of the DRC have seen minimal economic benefit.

The vast natural wealth of the DRC has long been in focus of foreigners seeking riches, beginning with Belgian colonialism. In the late 19th century, the King of Belgium, King Leopold II, established the Congo Free State as a personal colony. The period of the Congo Free State under Leopold’s rule, lasting from 1880 and 1920 is known as the “rubber terror” due to the brutalities that occurred during this period. With the intent of maximising the exploitation of the Congo’s rubber, Belgian troops and Congolese forcibly conscripted into the armed force

3. Ibid, 12.
7. Areas not previously mined nor explored for minerals.
went from village to village brutalizing the local populations. Those who did not collect enough rubber according to the colonial force were either killed or mutilated, and often both; It is estimated that, during this period, the Congo lost a staggering 20 million people.

International outcry over the atrocities occurring in the Congo Free State led Belgium to officially take over the colonial project in 1908. In doing so, Belgium argued, there would be more accountability and supervision over the colonial project in the Congo, and ultimately the most egregious human rights violations would end. While conditions did improve, the Congolese remained systemically oppressed in many of the same ways. Despite contributing thousands of troops to both World War 1 and 2, and proving to be a formidable asset to Allied efforts on the battlefield – providing crucial natural resources, including the uranium used in the “Little Boy” nuclear bomb dropped on Hiroshima – and providing vast amounts of labour and resources to enrich Belgium and its colonials, indigenous populations saw far from a proportional increase in welfare and services. Colonial attitudes rooted in racism led the Belgian colonizers to believe local populations were generally suited for little more than manual labour. These mistaken attitudes led to the Congolese from being barred from any sort of democratic representation until 1957, systems of segregation from white populations, prohibition from many services, and ultimately a Congolese state that worked for its colonial rulers but not for the Congolese. These injustices led to the Congolese people seeking independence from Belgium, which they achieved in 1960.

The rise to power of Joseph-Désiré Mobutu in 1965 following the Congo’s independence harkened a host of policies antagonistic to foreign investment in the newly independent nation. These policies included: forcing companies with their main assets in Zaire to also operate their head office there; promising all copper mined in Zaire to also be refined there; and forcing all foreign companies that have operations in Zaire to have a Zairean president. After causing most foreign investment to leave the country by the 1980’s, Mobutu, after realizing its benefit to the Congolese, did attempt to reattract foreign investment in 1981 by installing a free trade zone in Bas-Zaire with low power costs and tax incentives, and by instigating a comprehensive investor

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18. Mobutu also renamed the DRC to Zaire.
code in 1986. These efforts, however, proved largely unfruitful – no major foreign investment commitments were made by the end of the 1980s.20

Mobutu’s fall in 1997 and the Second Congo War, which claimed over 5 million lives, continued to repel major foreign investment.21 The country descended into the chaos of war which was in part fueled by the DRC’s vast resources. Rebel groups and militias plundered the DRC’s minerals, often with a wanton disregard for any sense of human rights in the process. Westerners have come to view war as expensive and unsustainable, but in the Congo “exactly the opposite [is] true: fighting a war [is] cheap, especially in light of the magnificent profits to be made from raw materials.”22 Even though much of the violence has subsided, rebel groups continue to sustain themselves through mining in the DRC.

The conclusion of the Second Congo War brought change to the country. Much of the violence that had plagued the DRC for the previous five years had subsided, and some sense of stability was achieved in most of the country. The DRC, under the influence of the World Bank, also instigated a new mining code in 2002.23 The code was largely in line with the increasingly liberal approach the World Bank had outlined – and that Canada supported – in the World Bank’s 1992 “Strategy For Africa Mining” Report.24 In contrast to past policies, the fiscal terms of the new code were far more generous to the extractive industry.25 The new code provided beneficial changes including an income tax rate of 30 per cent, royalties ranging from 0.5 per cent for iron to 2.5 per cent for precious metals, options to hold 60 per cent of earnings in off-shore accounts, and allowed for companies to claim accelerated depreciation on their assets.26

Even with the liberalization of the DRC’s mining code, Canada has pursued a bilateral investment treaty (BIT) with the DRC to help further advance Canadian extractive investment within the country. While most BITs over the past fifty years have not included liberalization provisions above those of the WTO, Canada has taken a different approach: it has been Canada’s goal to use BITs in Africa to advance Canadian foreign investment, particularly in mining.27

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One of the most important liberalization mechanisms prevalent in Canadian BITs is the investor-state dispute settlement mechanism. WTO agreements are subject to state-to-state dispute mechanisms, and Canada has sought to further protect Canadian corporate interests beyond these measures. The investor-state dispute settlement mechanism does this by enabling investors to make compensation claims against host countries for policies that harm the “legitimate expectations” they hold with regard to their investment. The importance of this policy to mining companies is underscored by the history of its use – a plurality of claims made under these mechanisms are by extractive companies, 86% of claims are made by investors in developed countries, and 73% of claims were made against non-developed countries.

Given the importance of the investor-state dispute settlement mechanism to Canadian mining companies, as highlighted by the precedent of its use, it is clear why Canada would seek a BIT with the DRC. The DRC’s mining code was a step in the right direction, according to Canada, but a BIT would provide further support for Canadian mining companies seeking to extract the DRC’s mineral deposits. However, Canada has not yet reached a deal with the DRC and has, to date, only engaged in negotiations.

Notwithstanding the lack of a BIT, Canadian mining companies have invested millions into developing the DRC’s reserves, and the Canadian government has sought to protect those investments. In particular, four Canadian companies – Anvil Mining, First Quantum Minerals, Katanga Mining, and Lundin Mining – have engaged in commercial scale extraction in the DRC. Moreover, multiple Canadian junior exploration companies, such as Ivanhoe Mines, have also held assets within the DRC, and these assets have been valued in the billions of dollars.

The most prominent example of a Canadian mining interests in the DRC influencing Canadian foreign policy is in the case of First Quantum, a prominent Copper miner headquartered in Vancouver. After investing over 750 million into Kolwezi, a copper project in the south of the DRC, First Quantum got into a dispute with the DRC over whether they abided by their contract. The dispute led to First Quantum ceasing operations at Kolwezi following a suspension order issued by the General Prosecutor of Katanga. However, First Quantum, in a press release, explicitly repudiated the contentions of the DRC and their order to suspend

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operations at the mine. The statement outlined three reasons why the order to suspend operations at their mine was illegal: that the general prosecutor cannot legally make such orders; that the order refers to the “spirit” of the letter of the General Attorney, which is not a valid legal basis; and that such orders are generally based on financial malpractice.34

The Canadian government, under Prime Minister Stephen Harper, sided staunchly with First Quantum in the dispute, and undertook action to protect their interests. Firstly, at the G20 summit a few months after the dispute had begun, Canada lobbied to include a passage criticizing the DRC’s respect for the rule of law in the G8’s communique. The hope of the Canadian government was that this political pressure, especially if it came from a united front of G8 countries, would make the DRC relent. Canada succeeded as the final communique called on the DRC to “extend urgently the rule of law.”35 First Quantum expressed content with the support they received from the Canadian government stating that they were “encouraged by the G8’s statement regarding the governance issues challenging the resource sector in the [DRC].”36

However, Harper’s government did not stop there in their support of First Quantum. Just a few days after the release of the G8 communique, Canada lobbied the International Monetary Fund (IMF) and the World Bank to block a debt relief plan for the DRC. Despite the debt restructuring ultimately being approved, Canada’s intent was clear: protect First Quantum.37

First Quantum and other major Canadian companies lead the way in paying taxes and fees to the Congolese government. Annually, over $1 billion is paid by mining companies, many of which are Canadian, for taxes, royalties, and other fees.38 This is in addition to all the Congolese employed directly and indirectly by major mining companies, and to any CSR programs. However, the people of the DRC are being prevented from obtaining the positive impact they deserve. The primary reason is inadequate and ineffective government: between 2013 and 2015, over 750 million of the DRC’s mining revenue did not reach the national treasury.39

The corruption and embezzlement of funds, and the regulatory issues Canadian companies such as First Quantum have faced, does not mean that the Canadian mission of expanding Canadian mining presence and production in the DRC is misguided. Canada ought to continue to promote Canadian mining in the DRC, however, the approach to achieving this goal should change.

With the exception of the unsuccessful attempt to sign a BIT with the DRC, Canada’s approach to foreign policy in the DRC has been reactionary. In the case of First Quantum, for example, Canada did not actively protect their assets until they came under attack. Instead of this reactionary approach to foreign policy in the DRC, Canada should take a proactive approach. By proactively seeking to build institutions and stabilize the DRC, the Canadian government can help promote mining investment in the DRC that has been repelled due to corruption and instability. The promotion of Canadian mining in the DRC will ultimately benefit the Congolese people by bringing jobs, prosperity and growth, and will, simultaneously, benefit Canadian workers and shareholders.

The magnitude of scale of the mineral deposits in the DRC present a great opportunity to catalyze economic growth and better conditions for the people of the DRC. The primary reason for which the DRC remains one of the poorest countries in the world is ineffective governance.40 The DRC can, therefore, improve with the help of mining if its governance improves. A study conducted by the International Council on Metals and Mining corroborates this conclusion through their research. In the study, Ghana is noted as a prime exemplar of effective governance and economic gains from extractive industries working in tandem to catalyze social and economic development. Ghana has made considerable improvements in health and well-being due to revenue from its mining sector, and the ability of a competent government to employ the generated capital effectively.41 Precedent of an African nation developing due to mining exists in Ghana, and thus the DRC developing primarily due to mining output would not be unprecedented – it has happened before.

The path to economic prosperity in the DRC through mining, therefore, rests on two conditions: mining production and effective government. Canadian companies with the support of the Canadian government are well positioned to ensure both these conditions are met.

Canadian mining companies, as previously stated, are some of most efficient and highest producing in the world. Canada is the largest source of mining investment in Africa, and Canadian companies operate some of the largest producing mines in Africa such as Kansanshi, the largest copper mine in Africa, in Zambia.42 Canadian companies can and should develop mining assets in the DRC from purely an economic standpoint. Mines are an inherently finite resource and thus mining companies are always in need of new assets - the DRC, with its vast mineral reserves, provides just that. Moreover, expansion into the DRC matches the mission mandates of many major Canadian companies which, in addition to generating profits, wish to make considerable positive impacts in the communities in which they operate.43

Canadian companies enjoy considerable support from the Canadian government, which can help the DRC improve in the context of governance. Of the Canadian government’s four key missions for development in Sub-Saharan Africa, promoting democracy and strengthening institutions is presented first and foremost. The remaining three – promoting peace and security, developing partnerships, and improving trade relations – can only be attained after the government has achieved a certain level of competence. Seldom is peace and security found in places with struggles over power, partnerships built in places where it is not clear who to partner with, and trade relations improved with countries who lack a competent government to negotiate with. Helping the government of the DRC and strengthening their institutions is, therefore, consistent with Canada’s official mandate in Sub-Saharan Africa.

One way the Canadian government can help improve the effectiveness of government and institutions in the DRC, and thus, simultaneously, protect and promote Canadian mining interests, is by bolstering support for the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO). Currently, Canada deploys just nine troops to the mission, an extremely small fraction of the total 16071 military personnel deployed. There is therefore plenty of opportunity for Canada to expand its presence and influence in the mission. Moreover, Justin Trudeau made expanding Canadian peacekeeping a part of his 2015 election campaign, and MONUSCO provides an opportunity to uphold this promise.

While the prescription of specific policies MONUSCO ought to undertake and that Canada ought to support is beyond the scope of this paper, the general purposes of the mission – to protect civilians under imminent threat of physical violence and to support the Government of the DRC in its stabilization and peace consolidation efforts – fits squarely with the goal to promote and protect Canadian mining in the DRC.

The protection of civilians is key to Canadian mining interests as civilians are the miners themselves. Canadian mines cannot be effective in production, nor in exploration, if their workers are under constant threat of violence. Additionally, foreign representatives from Canadian mining companies also need to know they are safe when travelling to the DRC. General protection of civilian safety is, therefore, crucial.

Most importantly, the mission’s goal to stabilize the DRC’s government and improve its capacity to govern effectively is pivotal to the success of Canadian mining in the DRC, and to the nation’s

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advancement. There are still significant skirmishes and power struggles in the Kivu province in the east of the country.\textsuperscript{48} Kivu, and the east of the DRC more broadly are especially important in the context of mineral wealth. For example, a major tin mine, Bisie, is located in the Kivu province.\textsuperscript{49} Canadian troops working in conjunction with other MONUSCO troops can work to create order in the Kivu province, and across the country, and help establish a stable foundation upon which the government and its institutions can develop.

Establishing order by disarming and demobilizing the various armed groups still operating in the East and building government institutions will reassure Canadian companies that exploring and extracting mineral deposits in the Congo presents a good risk-adjusted return on capital. The current levels of instability and government corruption has repelled Canadian investment in the DRC – the level of risk is simply too high.\textsuperscript{50} If Canadian support of MONUSCO can reassure Canadian companies that their investment is relatively safe from armed groups and government corruption, then investment will likely increase, especially given the quality and quantity of mineral deposits.\textsuperscript{51}

The stabilization of the DRC and strengthening of its institutions will improve the quality of life for the people of the DRC, but it is the influx of Canadian investment into the extractive sector that will amplify these positive impacts. In the long run, mineral extraction will play a crucial role in sustaining a prosperous DRC. Canadian mining companies operating in the DRC will pay taxes, employ locals, and contribute to economic growth in the region. Furthermore, the Department of Natural Resources has created a comprehensive CSR framework that will help Canadian companies avoid the negative externalities that can be associated with mining.\textsuperscript{52} Canadian mining companies also need to consider environmental impacts their operations may have when conducting operations abroad, such as in the DRC, as per the Canadian Environmental Assessment Act, or they risk prosecution at home in Canada.\textsuperscript{53}

This is not to say that all Canadian mining companies will operate in a way that is most beneficial to the DRC: Canadian mining companies operating in the DRC, and the mining industry in the DRC more broadly, have come under scrutiny and criticism, and rightfully so, in


\textsuperscript{49} "BISIE TIN PROJECT," Alphamin, accessed February 23, 2019, \url{http://www.alphaminresources.com/bisie-tin-project/}.


the past. Specifically, the mining industry in the DRC has been charged with damaging the environment and the wildlife and harming the health of miners, and the local populations more broadly. These concerns have also been magnified by the colonial roots of the industry in the DRC.

The Eastern Congo is home to some of the world’s most important nature reserves, including the Kahuzi–Biega National Park and Itombwe Nature Reserve, but they have been harmed by mining in the country. The mining of Coltan, for example, has been linked to a 77% fall in the population of Grauer’s gorillas. The stark fall in gorilla population is linked to artisanal miners having little other choice for food sources – they are, despite their reservations, required to hunt gorillas to survive.

The adverse environmental impacts resulting from artisanal mining in the DRC are primarily rooted to the lack of stability and insufficient institutions, not in mining. It is not inherent to mining that those working in the industry need to hunt for bushmeat to survive. The reason for which this is happening in the DRC is because local artisanal miners have no other option. Areas in Eastern Congo, where the illegal hunting of Gorillas remains a vital issue, continue to be plagued by ongoing violence which is ultimately the root of the problem. Due to the continued violence and skirmishes between rebel groups, local populations are forced to take a short-term approach to work, and, because of these circumstances, artisanal mining has become a disproportionately attractive opportunity for local populations. Artisanal miners earn on average significantly more than non-miners, and artisanal mining is generally seen as an attractive short-term career. Long-term orientated careers and businesses, such as agriculture or importing food, become artificially unattractive under unstable political circumstances. It makes little sense to invest time and energy into raising livestock when your family may be uprooted due to violence at any moment, especially when you can make enough money from mining.

The establishment of stability and development of institutions through Canadian intervention will ultimately mitigate the adverse environmental impacts currently linked to mining. Political stability will give the Congolese the option to pursue other careers and work outside of mining. And since almost all who have consumed illegal bushmeat indicated openly that they prefer to eat from other food sources, there is enough demand to start businesses providing more


57. Ibid.

sustainable food. Moreover, developing institutions such as schools and local police forces will give the Congolese the skills and abilities to pursue careers other than artisanal mining, and will ensure that illegal bushmeat practices are put to an end. In the end, it is not the mining itself that is the root of the environmental issues. Rather, it is the artificially high attractiveness of mining relative to everything else, caused by political instability and violence, which has crushed all other areas of society – like providing food.

Mining in the DRC has also come under scrutiny for unsuitable working conditions as well as the use of child labourers. Miners in the DRC have reported substantially higher rates of respiratory issues, especially those working in Coltan mines. Additionally, child soldier rates in some militias operating in the DRC have been estimated to be as high as 60% – and the mining industry, which is largely influenced by these militias, has not been immune to using child labourers when economically beneficial.

The violation of human rights in terms of health and child labour are once again not inherent to mining but rather to the greater political context of the DRC. Mining will never be the safest industry, but established Canadian companies are far more likely to emphasize health and safety relative to rebel groups. Canadian companies often release annual sustainability reports to inform stakeholders of their efforts to ensure sustainable operations. This trend has increased both credibility, and comparability, in CSR operations across mining companies. Ivanhoe mines, for example, reported in their sustainability report only one loss time injury across their three projects in the DRC in 2018. And beyond mining safety, Ivanhoe mines has helped administer 58,357 malaria diagnostic tests. Moreover, the largest institutional investors in Canada, which have large stakes in Canadian mining companies, consider environmental, social, and governance impacts when investing. Given that Canadian mining companies rely on their capital to fund operations, they also need maintain high levels of health and safety standards to ensure continued investment from these investors.

59. Ibid.
The contrast in safety is most clearly emphasized in the example of Katanga Mining, a TSX listed company. At their Kamoto Copper Complex mine, 43 local miners died while mining for cobalt. These miners, however, were not in any capacity employed by the mine. Rather, they were artisanal miners operating on their own.66 They lacked the training, safety procedures, health standards, reliable and fair pay – and basically anything else that ought to come with a job. But they were also breaking the law: artisanal mining is illegal in the DRC. The issue is not Katanga’s operations in the DRC, or the mining industry more broadly, but the lack of opportunity for these workers. They risked legal repercussions to mine at the site for little economic gain and lots of risk – and at least 42 of these miners paid the ultimate price. The expansion of Canadian mining and the strengthening of institutions would ultimately give these workers the opportunity to work above board in mining or in another industry.

The DRC also has health and safety regulations that prohibit many forms of health and safety violations, including child labour.67 However, despite having these laws on the books, the DRC has been unable to effectively ensure they are being followed. The strengthening of government institutions and regulatory bodies in the DRC will ultimately enable the DRC to enforce these laws.

As a general principle, Canadian mining firms invest in areas that would otherwise not see much investment, are held to higher standards under Canadian law, and behave better than mining companies from different countries, especially in poorer regions, of which the DRC is an example.68

The positive impact for Canadians is straightforward. Increased production and explorative discoveries for Canadian companies in the DRC pave the way for increased profits. Increased profits for Canadian mining companies benefit employees through elevated wages and bonuses, and shareholders through dividends and share price appreciation. And since mining represents such a large portion of the Canadian economy, these benefits are significant in their impact to the Canadian economy.

Canadian mining companies have been major investors in the DRC, and the Canadian government has sought to protect and promote those investments. Despite past adversity faced by Canadian companies in the DRC, Canada ought to continue to promote and protect Canadian extractive investment in the DRC – but with a different approach. Through the establishment stability and improving government institutions in the DRC, benefit to both the Congolese and Canadians will be realized. On one side, the Congolese will enjoy security, more effective government, and economic growth and prosperity. On the other side, Canadians will see domestic economic growth and improved shareholder returns. The mutually beneficial nature of


Canadian mining in the DRC underscores my argument: Canada has, and should continue to, promote Canadian mining in the DRC through its foreign policy.
Works Cited


“Child Soldiers in the Democratic Republic of Congo,” WITNESS, accessed November 7, 2019, 


