Between Tags & Guns: Fragmentations of public authority around eastern Congo's artisanal 3T mines

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Abstract
This essay addresses the current dynamics governing access to artisanal mineral markets in eastern Congo’s two Kivu provinces, an area caught in over two decades of protracted and multi-scalar armed conflict. It examines how public authority is fragmented and (re-)shaped through transnational reform that aims at breaking the presumed link of mining and conflict, and subsequently, how emerging forms of regulation impact on the trans-local negotiation of such authority. In doing so, the essay analyses the Congolese mining administration whose claims to public authority are constrained between (mineral) tags and (rebel) guns: while transnational intervention – by way of formalising mineral markets – infringes on sovereign prerogatives, sub-national conflict concurrently undermines state capacity to govern artisanal mining and exercise public authority around the mines. Wedged between these millstones, the Congolese mining administration performs its role by operating through its very own decay, paradoxically giving room to both transnational and sub-national actors. This, in turn, even more accentuates the fragmentation of public authority through different types of conflict and collusion in a volatile institutional and regulatory space.

1. Introduction

In place of the conventional assumption that the central state is the only actor of any real import, the institutional playing field is now shared with non-governmental organizations, multinational enterprises and other […] organizations. At any one point in time, the relative significance of each scale may change, in that the power can be scaled up or down through the different units of spatial authority, both transnational and sub-national. (Allen, 2009:201)

Since the early 1990s, armed conflicts in eastern Democratic Republic of the Congo (DRC) materialise as a cyclical reality (Lemarchand, 2009; Prunier, 2009). The concomitant perpetuation of violence is a key factor in the reshaping of public authority in the region’s political and social structure (Stearns, 2010; Vlassenroot & Raeymaekers, 2004). One recurrent argument says violence is caused by the region’s mineral wealth. This has motivated a series of transnational policy interventions to curb the presumed role of minerals in what is often referred to as a ‘war economy’ by quantitative studies. However, after over two decades, the same studies are yet to substantiate this claim, while being increasingly challenged by more recent work (see Cuvelier, Vlassenroot, & Olin, 2014). Nonetheless, the subsequent revolution of resource governance heralds fundamental changes in terms of public authority and the political geography of conflict: while the lobbying on eastern DRC’s ill-reputed mining sector resulted in a technical solution (supply chain management through ‘closed pipeline’ sourcing from mine to market) it profoundly affects the negotiation of authority in an area framed by multi-scalar conflict and collusion involving multiple stakeholders.

Along the following questions, this essay investigates the governance of mineral markets in DRC’s North and South Kivu provinces: what claims to public authority, or ability “to define and enforce collectively binding decisions” (Lund, 2006, p. 676), intersect in the everyday regulation of minerals? How does transnational reform, aimed at breaking the presumed link of mining and conflict, influence these? And, how does such regulation co-exist with sub-national conflicts and the trans-local negotiation of public authority? To answer these, the essay investigates the role and position of DRC’s mining administration within an increasingly fragmented landscape of public authority: while transnational intervention to formalise mineral markets infringes on sovereign
and government prerogatives, sub-national conflict over access and public authority further undermines state capacity to govern artisanal and small-scale mining (ASM). Moreover, a cultivation of de jure statehood provokes a situation whereby state institutions operate through their own decay, ending up wedged between other actors claiming public authority.

Methodologically, research in spaces of pronounced insecurity and ‘informality’ carries a number of caveats. Due to volatile patterns of governance and conflict it is difficult to generate conclusive answers on eastern DRC (Ellis & MacGaffey, 1996; Hart & Hann 2011; Raeymaekers, 2014). Therefore, I pay attention to spatial variation by comparing ‘clean’ and ‘conflicted’ mines through a multi-site ethnography and long-term fieldwork. After conceptualising the argument in the next chapter, I provide background on mining and sub-national conflict in the Kivu provinces. The essay continues with an empirical analysis of current dynamics reshaping public authority in the Kivurien ASM sector, including two specific vignettes on sub-national contestation and transnational intervention. The first, a corporate mineral traceability scheme called ITSCI, involving an increasing number of mines, illustrates the sub-national impact of transnational regulation. Secondly, the case of Raia Mutomboki (‘angry citizens’), a decentralised militia that co-governs mineral markets in their areas of influence, indicates how state authority is curtailed and re-shaped by sub-national actors. Finally, the conclusion summarises the findings and devises future avenues for research.

2. Conceptualising (the struggle over) public authority in eastern DRC’s mineral markets

Studying the dynamics of the ‘state’ remains a trans-disciplinary challenge for social scientists, whether or not focusing on a particular region or theme (Abrams, 1977; Weber, 1980; Tilly, 1985; Das & Poole, 2004; Bierschenk & Olivier de Sardan 2014). This article does not aim at replicating extant scholarship or suggest a grand theory of the ‘state’ or its components. Rather, it acknowledges two main arguments — that of the state as idea and as system. As an idea, the state links violence to legitimacy in fine-grained imageries and performative techniques. As a system, any state involves a multitude of politico-spatial networks and scales bound by its territorial confines. One way to illustrate the reshaping of public authority in eastern DRC’s mineral markets is to analyse how state institutions face “increasingly […] pressures” from both ‘above’ and ‘below’, which have resulted in the displacement of their authority (Allen, 2009, p. 201). This can happen both when non-state actors employ state imagery and performances but also when they become part of the networks, which a state claims exclusivity for, such as the negotiation of taxation or the imposition of rules. This can result in trans-local networks of public authority in which both state and non-state actors participate, in other words — “node and network” forms of political-economic organization” (Agniew, 1994, p. 65). Such authority though, as Lund (2016:1200) reminds us, is always in the making, and one may want to add that at the same time in the unmaking (or reshaping), too. This corresponds to the idea of state authority as not so much ‘up there’ or indeed ‘over there’, as part of a spatial arrangement within which different elements of government, as well as private agencies exercise powers of reach that enable them to be more or less present within and across the spaces of the nation. (Allen, 2009:208)

Arguably, North and South Kivu are sub-national entities with a particularly fuzzy landscape of public authority and contestation of access to resources. Home to the better part of armed conflicts, they have also become a landing site of transnational mining reform. Adding to the mining administration’s limited capacities (and potentially, willingness), two other factors propel the fragmentation of authority: civil servants at the local level have to juggle multiple allegiances — in parts towards non-state (armed) actors — and globalisation further threatens the grasp on public authority of institutions already considered ‘weak’. Embedding this into larger dynamics of legal pluralism, economic ‘informality’, and conflict-related insecurity, a more networked and topological reading of institutional change is useful (Allen, 2011; Hart, 2008; Moore, 1973; Roitman, 2004; Olivier de Sardan 2008). In this case, not just local actors but also transnational bodies deploying their clout at sub-national levels. This constellation allows for novel contestation over public authority involving a variety of non-state actors with different qualities and assets.

In asking how this fragmentation plays out, the aim of this essay is to dissect conflict and collusion between ‘state’ and ‘non-state’ actors in a sub-national environment marked by transforming economic regulation. To understand some of the ways in which participants in such arenas advance their agendas, I conceptualise public authority as the ability “to define and enforce collectively binding decisions” (Lund, 2006, p. 676). This provokes a picture of a state that enjoys a monopoly of violence and sufficient degree of legitimacy; one that is organised in a structured plethora of institutions with specific tasks, competencies, and assets. But despite the ‘cleanliness’ of such imagined ideal types, public authority is not exclusive: as opposed to the notion of ‘state failure’, the idea of fragmented public authority entails that whenever a state loses exclusive authority in a given space, it is useful to ask in what ways, with whom, and through which networks this is shaped, shared, and negotiated. Many studies have tried to conceptually grasp the wealth of empirical materialisations of public authority, most of them focusing on post-colonial Africa (Boege et al. 2008; Hagnann & Pêclard 2011; Hansen & Stepputat, 2006; Lund, 2014; Raeymaekers, Menkhaus, & Vlassenroot, 2008). In his work on ‘twilight institutions’, Lund suggests that “[i]n Africa there is no shortage of institutions attempting to exercise public authority” (Lund, 2006, p. 686). This highlights how competition over public authority confronts state institutions with other stakeholders. Although these ideas are based on ethnography in West Africa on domains other than ‘mineral governance in a context of sub-national armed conflicts’, its key argument is worth considering for the case of eastern DRC. In parts this is due to the acknowledgement of both local and external, which can be transnational, dynamics:

[Public authority becomes the amalgamated result of the exercise of power by a variety of local institutions and the imposition of external institutions, conjugated with the idea of a state. (Lund, 2006:686, emphasis added) ]

Lund’s argument appears to combine a systemic and an imaginary notion of the ‘state’, its components, and competitors. The key pivot for the empirical analysis in this essay is the formalisation of a supposedly unregulated ASM sector, as well as

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1 This includes participant observation, ‘follow-the-thing’ exercises, and around 300 anonymous interviews and focus groups held in five mining areas in North and South Kivu as well as in Goma, Bukavu, Bujumbura, and Kinshasa between 2013 and 2016.

2 These can be manifold: uniforms, stamps, forms to categorize, identification techniques and documents, invented or real traditions, et cetera.

3 Even though this essay is interested in a spatially bounded case study — the Kivu provinces — the interactions it investigates span beyond.
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