Privatisation, stakeholder power, and weak institutions: the case of the Democratic Republic of Congo

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Abstract: Privatisation is often suggested as means to improve efficiency of state-owned companies and to increase involvement of developing countries in globalisation. This paper examines the economic and social impact of the privatisation of large resource companies in the context of weak institutional environments. The key stakeholders involved in the process of privatisation are identified: national and international governments; private corporations; civil society; and local communities. The complexities of interplay and power relationships among them are described. The main outcome is improved production and increased government revenues. But the marginalisation of the local community during the process and the negative impact on the well-being of its members calls for changes in the process. Privatisation in response to globalisation did not improve stakeholder circumstances. Overall, this development model does not seem sustainable. Suggestions are made for its improvement for a long-term and shared prosperity.

Keywords: governance; corporate social responsibility; CSR; developing countries; privatisation; stakeholder power; Democratic Republic of Congo.


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Introduction

Recently, state-run enterprises in Sub-Saharan Africa have been facing mismanagement problems that led governments to consider privatisation. Studies on privatisations, especially in countries with weak institutions, have found contradictory outcomes; some positive (McKenzie and Mookherjee, 2003), and others negative (e.g., Hall and Lobina, 2004, 2005; Castaneda, 2003). Dyck (2001) suggested that in the presence of weak institutional and legal environments, the success of privatisation of state-run enterprises requires specific conditions such as a judicious choice of governance chain and reforms to compensate for the existing weaknesses.

Core concerns about the privatisation of government-run companies in developing countries with weak institutions are:

1. the power inequality of stakeholders involved
2. the unavailability of the institutional apparatus to protect the weak from the strong
3. the approach to corporate social responsibility (CSR) of the firms involved.
The issue of unequal power relationships between stakeholders in developing countries deserves great attention in the CSR studies because it highlights the contextual differences that shape business obligations (Idemudia, 2011). This paper responds to Idemudia’s call for a systematic accumulation of data and CSR studies in emerging markets to achieve poverty reduction, capacity building, and community empowerment. This is accomplished by examining the impact of stakeholder power on the privatisation of the largest government-owned company in the Democratic Republic of Congo, the Gecamines. The following questions are addressed:

1. What were the levels of power of different stakeholders?
2. What was the impact of these powers on the stakeholder roles?
3. What impact, if any, did the power differences have on outcomes?

2 Theoretical framework

In the process of economic globalisation, developing countries have embraced one of the two types of corporate governance reforms on their own or under pressure from international financial institutions (IFIs):

1. the shareholder approach
2. the stakeholder approach (Reed, 2002).

The shareholder approach is rooted in the neo-liberal ideology and considers the maximisation of shareholder wealth as the best way for business to maximise societal utility. Alternatively, the stakeholder approach suggests subjecting the maximisation of shareholder interests to the interests of other stakeholders such as creditors, management, employees, surrounding communities (Siddiqui, 2010).

In recent decades, developing countries have preferred the shareholder model to legitimise unpopular liberalising measures, in order to promote efficiency among domestic firms, and to increase investor confidence (Reed, 2002). Yet, other studies suggest that in countries with weak regulatory systems, the stakeholder approach would lead to better results (Siddiqui, 2010; Rwegasira, 2000). Another group of scholars suggest the adoption of a hybrid model including shareholder and stakeholder with adjustment to local realities (e.g., Andreasson, 2011). Some studies that have examined the corporate governance practices in African countries have emphasised the regulating power of the market to reduce the negative effects of a shareholder model (Campbell, 2006; Gerson and Barr, 1996; Vaughn and Ryan, 2006). Other studies have suggested African countries must address the issue of weak institutions before effecting positive outcomes from governance reforms (Wanyama et al., 2009; Okike, 2007).

Corporate governance reform studies in Sub-Saharan Africa have mainly focused on the form and quantity of reform measures and their outcomes. Little attention has been given to the power of stakeholders, especially local communities (Calvano, 2007; Parsons, 2008; Kobeissi, 2009; Voort et al., 2009). The current study analyses the process of privatisation using the stakeholder perspective with an emphasis on the relative power of actors including communities. This perspective brings more light on the assessment of the impact of this process given the weakness of the institutions (Rwegasira, 2000; Siddiqui, 2010). Jamali (2008) asserts this perspective allows the consideration of
traditional actors as well as silent ones; its findings are more easily grasped by managers and practitioners, and the perspective delineates relevant stakeholder issues and associated measures of impacts.

Stakeholders have been grouped into categories by various authors (Tsoi, 2010; Russo and Perrini, 2009). Mitchell et al. (1997) suggested the use of the attributes of power, legitimacy, and urgency to identify the most salient stakeholders of an organisation. Power is posited by many scholars as the key stakeholder attribute and the driver of stakeholder management (Frooman, 1999; Clifton and Amran, 2010). However, Clifton and Amran (2010) affirm that power, legitimacy, and urgency criteria treat stakeholders as means rather than ends and fail to address a corporation’s impact in terms of well-being and justice that underlie sustainable world development. Combining stakeholder power and well-being could bring a better understanding of social responsibility process and impact of the company on its business environment. This is further justified by the fact that the determination of stakeholder categories itself is recognised as being dynamic and dependent on the organisation’s context (Russo and Perrini, 2009).

This study adopts the stakeholder categories identified by Anderson et al. (2006, 2007). These authors have identified five groups of stakeholders that interact and facilitate or impede an indigenous community to embark in a global economy. These are:

1. the state (all levels of the government)
2. the supranational bodies (all international government organised entities)
3. the civil sector (such as non-governmental and charitable organisations)
4. the corporations (profit oriented organisations)
5. the indigenous (local) community.

For the purpose of this paper, the Anderson et al. (2006) stakeholder model is slightly modified and includes the following components: IFIs, Congolese state, foreign states, civil sector, corporations, and local community (Figure 1). While the integrating, transforming and excluding mechanisms in the Anderson et al.’s original model were based on the assertiveness on local values versus accommodation to global forces, the model used in the current paper is based on the stakeholder power inequality, the stakeholder perception gap (interests), and the cultural context (surrounding environment). Calvano (2007), Dana and Anderson (2014), Missens et al. (2007), Peredo et al. (2004) and Mikkelsen et al. (2008) all identified these factors as important in shaping the relationships between multinationals and local communities.

To analyse the stakeholder positions, Clegg’s (1989) circuit of power framework was adapted using some terms from the three dimensional model of power by Gaventa [Gaventa, cited in Clegg, (1989), p.110]. This adaptation led to the descriptive framework of power in Figure 2. This framework describes the power at three levels: causal, dispositional, and facilitative.

First, the causal power between stakeholders (agencies in Clegg’s language) allows observing the interdependency of stakeholders with regard to their relative control on resources. This corresponds to the resource dependence perspective using withholding or usage strategies as described by Frooman (1999).

Second, the dispositional level relates to the rules of practice that allow the social integration leading to conditions that enable some stakeholders to dominate others even if
the resources are not involved. Therefore, dispositional conditions can lead one stakeholder to have power over another due to the rules, historical events and the past experience that create barriers for the participation of some stakeholders or limit their power in the process of privatisation for example.

**Figure 1** Stakeholders to the privatisation of a mineral company

![Stakeholders to the privatisation of a mineral company](image)

Finally, the facilitative level of power relates to the integration system (external environment or context) that facilitates or restricts the empowerment or disempowerment of stakeholders through myths, ideologies, and information control. These factors shape the consciousness of some stakeholders to view the world in a way that does not facilitate their participation to the process of privatisation.

**Figure 2** The circuit of power in the process of privatisation

![The circuit of power in the process of privatisation](image)
By determining the stakeholder positions, the examination of the three levels of power allows assessment of the impact of stakeholder power on the privatisation process in the Democratic Republic of Congo. The Congo bears all the characteristics of countries with weak institutions, namely, failed state, active conflict, high level of corruption, and poor human rights records in addition to the presence of fragile governance institutions (Hassanein et al., 2006).

Gecamines was a Congolese government majority owned company and the largest mineral exploitation company in the country. In 1988, it was a source of more than 60% export revenues of the country, and produced 430,000 tons of copper (sixth in the world), 16,000 tons of cobalt, and 62,000 tons of zinc. Besides mineral exploitation, the company was an important provider of education (elementary and higher education), health facilities, electricity and water in the area. But the mismanagement of this government company led it to bankruptcy in 2000s and subsequently, to its privatisation. The problem studied in this paper is just how the privatisation should be effected to bring positive outcomes to its stakeholders. This company is similar to other diamond, gold and oil extraction companies in Congo (Katunga, 2006; CCFD-Terre Solidaire, 2013).

Figure 1 indicates privatisation of the Gecamines was a result of interactions between different stakeholders directly or indirectly involved in the process (Akitoby and Cinyabuguma, 2004, Berke et al, 2007; Mazalto, 2009).

The circuit of power does not cover equally the aspects identified by Calvano (2007), but it nevertheless allows a better understanding of the power dimensions such as prevalence of one stakeholder over another, the construction of barriers by stakeholders, and the influence and shape of the consciousness of stakeholders about the existence of inequalities (Clegg, 1989). For each stakeholder, power is described at a particular level only if it is effectively present.

3 Methodology and contribution

3.1 Information sources and measures

Secondary sources such as the IFIs reports, the Congolese government documents, and reports from other international institutions were parsed for data. Publications by other stakeholders and scholars on the Gecamines privatisation were also consulted.

3.2 Measures

The description of the role played by each stakeholder in the privatisation process will be qualitative, given the difficulty in quantifying information about power from the sources above.

3.3 Contribution

Power is an important stakeholder attribute; any stakeholder is considered a target that could be influenced by another actor in Figure 1. The choice of a couple of strategies (direct or indirect withholding/direct or indirect usage) depends on the level (low or high) of actor’s interdependency and power (Frooman, 1999). This paper verifies these
propositions in the context of the firm privatisation with stakeholders from different levels.

Subsequently, the paper seeks to find the real causes of some governance practice failures in countries with weak institutions as is the case for many developing countries. Different governance practices are often offered to these countries as panaceas, but continued failures and poverty of the targeted populations have been observed. The problem might not be in the reforms themselves, but in the intent of those who implement them and the processes adopted. In addition to the examination of the relative importance of stakeholder power and its impact on the privatisation process, this study goes beyond the traditional outcome ranking measures and looks at the impact of governance on the wellbeing of the local communities as suggested by McKenzie and Mookherjee (2003), but in the context of a failed state with weak institutions.

4 Description of the circuit of power in the process of privatisation

Power during the process of privatisation is described by each stakeholder. The interests of the stakeholder are identified, and then stakeholder’s power is described at the three levels (causal, dispositional, and facilitative).

4.1 The IFIs

By 2001, the DRC owed US$13.9 billion (249% of the country’s 2002 GDP) to external creditors. Approximately 24% of this debt was owed to IFIs and 71% to bilateral creditors members of the Paris Club (IMF, 2003: 32). IFIs such as the World Bank, the African Bank of Development, and the IMF coordinated efforts leading to privatisation (Gilfenbaun and Lawrence, 2005; African Development Bank Group, 2008; IMF, 2010). These efforts later extended to include the DRC bilateral creditors and led to the creation of the Country Assistance Framework (CAF).

CAF is a process by which 17 multilateral donors and major bilateral partners developed a common strategic approach for economic assistance to DRC (CAF/UDAF, 2007). The criteria used for each IFI were different. For example, the IMF considered the quantitative performance criteria and indicators included ceilings on:

1. net credit to government by the banking sector
2. net domestic assets of the central bank
3. net foreign assets of the central bank
4. central bank payments on government expenditure without prior authorisation by the ministers of finance and budget
5. external arrears; and
6. non-concessional external debt (IMF, 2010).

To proceed, the criteria of a previous phase had to be satisfied.

The World Bank (WB) and the African Bank of Development (AfBD) had their own programmes, regulated by frequent consultations and following the same pattern. Between 2001 and May 2005, the World Bank disbursed $2.4 billion in grants and credits
to the DRC government [IMF, (2005), p.89]. The circuit of power analysis is limited to the IMF assistance due to the availability of, and accessibility to, information.

4.1.1 Causal power

The IMF had a strong causal power over the DRC. The memorandum defined quantitative indicators and structural benchmarks that the DRC government had to achieve in a given timeframe (DRC, 2004). First, the DRC had important arrears to pay to the IMF. To start the assistance, the DRC was required to follow strict engagements to pay its arrears of SDR 392 million by April 2001. Also, it signed a memorandum covering the understandings on monitoring implementation of different measures and the information to be submitted to the IMF. The reports suggest imperative orders.

The process above indicates that the IMF controlled the resources that the government needed. While theoretically the DRC had a leading role and the IMF a supporting one for the policy decided by the country, in fact it is clear that the DRC was subjected to the IMF’s lead on the basis of expertise or resources. Thus, the country, in agreement with the IMF, went from the Staff Monitored Programme (SMP) in 2001–2002, to the Heavily Indebted Poor Countries (HIPC) completion point in July 1, 2010 after passing through the Poverty Reduction and Growth Facility (PRGF) arrangement (April 2002). This was in conjunction with the application of the Government Economic Programme (GEP), HIPC decision point (July 2003), Poverty Reduction and Growth Strategy Supported Programme (PRSP) and interim debt relief (July 2003–2006) (IMF, 2007, 2009).

The presence of IMF resident advisers in DRC’s government structures, the staff controls, the allocation of funds as reward, and the SMPs as punishment are indicators of causal power that the IMF had over the Congolese government (IDA-IMF, 2002; IMF, 2004a). The following statement illustrates the IMF’s involvement in the reforms process: “Despite these impressive achievements, the Democratic Republic of the Congo faces considerable challenges ahead. Regarding economic policies, the main tasks are to preserve macroeconomic stability, deepen structural reforms, promote an environment that is conducive to private-sector led growth, and combat widespread poverty” (IMF, 2004b).

The causal role of the IMF and other IFIs during this process is obvious through the possibility to reward or punish through financial control and to influence through the presence of advisers.

4.1.2 Dispositional power

Current and historical events explain the power the IMF has over the DRC government in addition to the causal process above. The presence of IMF advisors throughout public services facilitates compliance to the IMF rules. Secondly, prior sanctions by the IMF put pressure on the DRC government to avoid failure. Also, the presence of multinational forces from the European Union and the United Nations gave the impression of power of the international community over the local government. Finally, the past experience with the ‟Comité International d’Accompagnement de la Transition’ (CIAT) continues to give the impression that the international community guides the action of the Congolese government.
4.1.3 Facilitative power

Colonisation and the practice of aid have left the belief of financing gap in developing countries (Easterly, 2002). By observing through IFIs and Congolese government behaviours, the DRC appears, despite its natural riches, to be so poor that it has little hope of increasing its own savings and that only multinational and developed country donors could fill the financing gap with foreign aid to make the investment happen (Moss, 2007; McMahon and Cervantes, 2011; Prasad et al., 2003). This illusion, despite the lack of supporting empirical facts, is present in IMF. It facilitates the submission of the DRC government to the IMF policies. It is not limited to the financial area; it is extended to the political ground where Congolese people and politicians believe that a person must have a godfather in the multinational and developed countries to succeed in the political career. In 2003, the Official Development Assistance (ODA) rate of the DRC represented 94.7% of the GDP which was the highest of the continent where the average rate was 5% [Moss, (2007), p.133]. The dependency of Congo on the foreign assistance was expected to be high even after the country’s HIPC completion Point. According to the IMF estimates, after the HIPC completion Point by June 2010, the DRC debt-to-GDP ratio would breach the threshold of 30% and reach a high of 45% by 2012 [IMF, (2010), p.76].

4.2 The Congolese government

4.2.1 Causal power of the government

The Congolese government controls resources in the country. The government has used this to resist to the power of the multilateral organisations. For example, the DRC government surprised the IFIs by creating a joint-venture ‘Sicomines’ between Gecamines and a consortium of Chinese companies in 2008. In the agreement, “the Congolese government provided a public guarantee on the loans for the mining and public infrastructure projects” [IMF, (2010), p.74]. This was “a violation of existing agreements with the IMF and World Bank concerning the indebtedness of the country” [World Bank, (2008), p.45]. Also, the DRC government resisted the IFIs agreement by increasing wages of some personnel as shown in the following statement: “Concerning wages, and contrary to the program, the onetime bonus granted to the military in May was made permanent and the government granted salary increases to members of parliament (100 percent) and to the cabinet staffs of ministries (150 percent)” (DRC, 2002).

In addition to its sporadic resistance to multilateral organisations, the government has a causal power on private companies; such as the issuing of exploitation permits to private companies to yield a tax payment in an amount of 46% of the project’s pre-tax cash-flow [World Bank, (2008), p.20]. Furthermore, the possibility of companies being able to negotiate a reduction of this burden increases the government power (for details, see Idem, pp. 25–27). Also, the government can sign a contract with a private company, re-negotiate it and, even cancel it afterwards (RAID, 2007; RDC, 2007a, 2007b).

The government also demonstrates causal power on the local communities. In addition to control over the natural resources within the community, the government has control over royalties from resource exploitations (Wily, 2010). According to the constitution and the terms of the mining code, 40% of collected mining royalties must be
ceded to provinces (World Bank, 2008). But the central government was not eager to respect this constitutional requirement.

4.2.2 Dispositional power of the government

Legally, the Congolese local communities should have some control over the mineral resources, at least with respect to the environmental impact (Zongwe, 2008). But in practice, they do not. The abuse of power by the Congolese government over resources and local community has its roots in the DRC history through three main periods: Free State (1884–1908), Belgian colony (1908–1960), and Independence (1960-today) (Global Witness, 2004c; Nzongola-Ntalaja, 2003; Peemans, 1975).

Leopold II was known as “a callous monarch whose forces … wiped out whole villages of recalcitrant locals” [Deibert, 2008; Hochschild, (1998), p.165]. Later, the Belgian government used Catholic churches, corporations and public administration to govern and exploit the Congolese resources and generally export them for the benefit of the Belgium (Peemans, 1975; Jewsiewicki, 1977, 1980). The callous situation, although not exactly similar to the one under Leopold II, continues [Hochschild, (1998), p.271].

After independence, the governments that ruled the country were more concerned about the security of their regimes through complicity with the external powers than with the community development (Braeckman, 1992; Kankwenda, 2005; Stearns, 2011).

Throughout the three historical periods identified above, any resistance by the local community was quelled in a brutal and bloody manner. These brutal and bloody reactions have shaped the behaviour of local communities, which is to passively resist to the government power. For example, peasants used resistance tactics such as “Boiling cotton seeds before sowing them, cutting the roots of coffee trees beneath the earth, choosing infertile soil in which to plant the crops forced on them by compulsory cultivation” [Jewsiewicki, (1980), p.29]. The resistance of peasants to imposed low prices for agricultural products has been well described by Hyden (1980).

4.2.3 Facilitative power of the government

The historic development of relationships between the government and the local community regarding resource exploitation can explain the facilitative power. The violent reactions by governments have resulted in local communities accepting exploitation of resources without return. It is not surprising that the privatisation took place with just sporadic and rare reactions from the local community despite the impact of the process on the lives of the community members (Peyer, 2011).

For example, in the presence of a forced displacement of villages for mineral exploitations without appropriate compensation, one would expect a strong reaction from the local community. But this did not happen often and when it did, the reaction of the government and corporations were violent (Katunga, 2006; CCFD-Terre Solidaire, 2013).

4.3 Foreign governments

4.3.1 Causal power of foreign governments

Foreign governments, especially those from developed countries, exercise causal power as lenders to the DRC. In 2001, foreign countries accounted for 74% of the DRC’s external debt of US$ 13.9 billion. These countries have been consulted by IFIs during the
process of their activities since 2001. Many of these countries were members of the CIAT. Five of these countries (USA, France, Belgium, Germany, and Italy) accounted for about 65% of total Paris Club debt (IMF, 2003). They could therefore have a strong influence on the process of privatisation that was part of the liberalisation measures given the amount of resources involved.

4.3.2 Dispositional power of foreign governments

Many foreign government members of the Paris Club are also important contributors of IFIs and play an important role in the direction of some IFIs. Sachs (2005, p.287) speaking about the IMF and the World Bank, observed that “the rich countries have kept a voting majority”. This majority gives them considerable influence over the policy of the IFIs and, consequently, on the measures made with regard to the DRC. One can say that the foreign countries have a dispositional power similar to the one held by the IFIs. For example, allowing the DRC to establish eligibility for IMF programmes in 2001 after a decade of suspension, a foreign country agreed to be part of a bridge loan in order to pay the DRC’s arrears to the IMF (Boughton, 2001; IMF, 2001).

4.3.3 Facility power of foreign government

Since the DRC’s independence, different events have allowed the development of the myth that any ruler in Congo can sustain his/her power only with the support of the developed countries. Abundant documents tracing presidential succession illustrate this (Braeckman, 1992; de Witte, 2001; Leonard and Strauss, 2003; Easterly, 2006; Calderisi, 2006). When Joseph Kabila was named as DRC President a few days after the assassination of his father, he went on an official trip to France and USA before visiting the Congolese provinces. This myth, true or false, predisposes Congolese authorities and Congolese public opinion to be inclined to accept propositions from powerful foreign countries. Because liberalisation is nowadays the leading political paradigm in the developed countries, it is not surprising that this paradigm has been embraced by the Congolese government. When Kankwenda (2005) described the predators of the Congolese economy, he placed foreign governments in the first position, followed by IFIs, private corporations (multinationals and domestic companies), local politicians, international lobbyists, and international suppliers.

4.4 Civil society

This expression covers a variety of organisations including humanitarian organisations like Oxfam and Care, human rights defence organisations like RAID and Global Witness, churches like Catholic Church, politically-oriented non-profit organisations like the Carter Center and the International Crisis Group. They can be international or domestic (Anonymous, 2009). Analyses in this paper will be limited to foreign non-profit organisations which, by their activities, have behaved as pressure groups as attested in their reports, and have an impact on the privatisation process. The civil sector’s indirect role has been described in various assessment reports [e.g., Rights & Democracy (2007), Rights & Accountability in Development (RAID, 2004), Stockholm International Peace Research Institute (Koning, 2009), ASADHO et al. (2007) and Global Witness (2006)].
Table 1 presents a list of some of these reports where these organisations pursue, among other things, the mission of human rights and environmental protection, social responsibility, and conflict prevention. Generally speaking, they do not have causal power, but their dispositional and facilitative power might be strong.

<table>
<thead>
<tr>
<th>Organisation</th>
<th>Country of residence</th>
<th>Sample of Publications</th>
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<tbody>
<tr>
<td>RAID</td>
<td>Oxford, UK</td>
<td>2007</td>
</tr>
<tr>
<td>SwedWatch</td>
<td>Stockholm, Sweden</td>
<td>Nordbrand and Bolme (2007)</td>
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<tr>
<td>SIPRI</td>
<td>Stockholm, Sweden</td>
<td>Koning (2009)</td>
</tr>
<tr>
<td>CorpWatch</td>
<td>San Francisco, USA</td>
<td>Deibert (2009)</td>
</tr>
<tr>
<td>Rights &amp; Democracy</td>
<td>Montreal, Canada</td>
<td>2007</td>
</tr>
<tr>
<td>International Crisis Group</td>
<td>Brussels, Belgium</td>
<td>2006</td>
</tr>
<tr>
<td>Netherlands Institute for South Africa</td>
<td>Amsterdam, Netherlands</td>
<td>2006</td>
</tr>
<tr>
<td>Les amis de la Terre</td>
<td>Montreuil, France</td>
<td>Kumwamba and Simpere (2008)</td>
</tr>
<tr>
<td>The Carter Center</td>
<td>Atlanta, USA</td>
<td>2009</td>
</tr>
<tr>
<td>Human Rights Watch</td>
<td>New York, USA</td>
<td>2005</td>
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</table>

4.4.1 Dispositional power of civil societies

Some international civil society organisations claim to raise the awareness of Western consumers, economic actors, and policy makers regarding their responsibilities in the deterioration of the DRC’s security and humanitarian situation. Others claim to prevent conflicts that are linked to the mineral exploitation. Reports produced by these organisations denounce government and business wrong-doings and make recommendations to reduce the lack of respect of human rights in DRC mineral exploitation, poor governance, and the links between mineral companies and the conflicts that have ravaged the DRC for many years. RAID (2004) examined the role and conduct of companies listed in the United Nations panel report in DRC and made recommendations for improving the situation. Rights & Democracy (2007) examined the impact of a mineral company located in Katanga on the potable water, human rights, labour rights, and the right to health. RAID (2007) found that the benefit sharing between Gecamines and its partners was disproportionate and unfair for the Congolese company.

4.4.2 Facilitative power of the civil societies

The facilitative power of the civil society organisations lies in the effectiveness of their actions in the past and the increased awareness of social responsibility in Western countries. These organisations have been consulted by the IFIs and the CAF. In one of its publications [CAF/UNDAF, (2007), p.3], the CAF announces a series of consultations with the private sector and civil society. An example of the effectiveness of the civil society is the case of the AngloGold Ashanti (AGA) in DRC (Kapelus et al., 2008). AGA had a license to explore a gold deposit in the Ituri region (Northeast of the DRC). The Human Rights Watch (2005) published a report titled ‘The curse of Gold’ denouncing
bribery and lack of human rights by AGA. The report and the attention it received from the international media prompted AGA to give response about its engagement to the community in conflict region.

4.5 Corporations

Corporations have always held strong influence on the Congolese and foreign governments dealing with the DRC. This influence has been largely documented and mostly denounced by scholars, civil societies, and international organisations representatives (Braeckman, 1992; Hochschild, 1998; Global Witness, 2004a, 2004b, 2006; Human Rights Watch, 2005; Kankwenda, 2005). Foreign corporations participated in the liberalisation process by their active involvement in the privatisation process of Gecamines. For example, in 2005 the Congolese government had approved three joint-ventures between Gecamines, and four foreign companies (RAID, 2007). Private Congolese-owned companies played almost no part in the process. This absence could be explained by the lack resources. The influence of foreign corporations on the privatisation process can be observed at the three levels of the circuit of power.

4.5.1 Causal power of corporations

In DRC and in foreign countries dealing with the DRC, corporations have resources that politicians and political parties need. Through legal lobbyist actions or illegal bribery, a corporation can lead politicians and public servants to make decisions that serve the corporation’s interests. Global Witness (2004a, 2006), describes a widespread corruption and fraud at all levels where government officials are colluding with companies in circumventing control procedures and the payment of taxes. During the privatisation process, Gecamines created joint-ventures with foreign companies. Contracts for these joint-ventures were signed and approved by the DRC government officials (RAID, 2007). A close examination of these contracts by United Nations panels, civil societies, and the Congolese parliament members has revealed that they were unfair to the Congolese government and very beneficial to private companies (RAID, 2004; ASADHO/Katanga et al., 2007; Global Witness, 2009; RAID, 2007a; The Carter Center, 2007, 2009).

4.5.2 Dispositional power of corporations

Corporations operating in DRC are members of professional organisation called FEC (Federation of Enterprises of the Congo). Through this organisation, Congolese companies influence the government decisions. For example, in its communication to the government [FEC, (2007), p.7], this organisation suggests that partnerships with foreign firms that are better structured should be encouraged to take advantage of know-how, management skills, technology and foreign markets. But the most influential role of corporations lies in their collisions with both the Congolese and the foreign governments (Kankwenda, 2005).

4.5.3 Facilitative power of corporations

The facilitative power of corporations lies in the stories and legends of their effectiveness on the government in the past.
4.6 The local community

The local community is the weakest stakeholder with regard to power in the privatisation process. According to the World Bank (2008, p.65), "very little meaningful consultation with communities appears to take place in DRC". The World Bank mentions the bloodshed incidents between the local community and the coalition of representatives of government and corporations. On the same topic, Global Witness (2004a) described the local impact of the mineral trade in Katanga and found a huge contrast between the booming mineral trade and an area with a desperate population characterised by poverty and unemployment.

The power relationship among stakeholders is illustrated through the case of one foreign company, First Quantum, which acquired one part of Gecamines. This company was presented as a model by the World Bank. The case has been widely reported (RAID, 2007; Custers and Nordbrand, 2008). The situation presented in Table 2 indicates that the World Bank was deeply involved in the preparation of the legal text leading to privatisation in which its investment branch took part along with the Canadian company. This company had recruited a former Canadian prime minister as an adviser. This adviser negotiated contracts for the company in conditions that were not considered as normal by some civil societies. Furthermore, the same person acted as a representative of a civil society and observer in the Congolese presidential elections in 2006.

Table 2  Power game in the process of mineral contract between Gecamines and a foreign company

<table>
<thead>
<tr>
<th>Stakeholder</th>
<th>Examples of power in the privatisation process</th>
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<tr>
<td>World Bank (WB)</td>
<td>Involvement in the development of a code of investments and other legal texts putting in place a liberal environment supposed to ensure transparency in the access to mineral resources (e.g., allocation of permits), reduce government discretion, promote disclosure of information and ensure a fair distribution of revenues among government, mining companies and affected communities (RAID, 2007). The International Financial Corporation (IFC), a World Bank branch that provides investments and advisory services to build the private sector in developing countries, obtained 7.5% equity stake in the KMT project and hoped to make it a benchmark transaction for other projects to replicate. Also, the IFC took a lead role helping the DRC to improve its business climate (Gilfenbaun and Lawrence, 2005). Other partners were First Quantum Minerals Ltd (FQ) of Canada (65%), DRC government (5%), Gecamines (12.5%), and IDC of South Africa (10%). When the contract has been cancelled by the DRCG, the IFC halted investments in the DR Congo until the dispute resolved (Kavanagh, 2010).</td>
</tr>
<tr>
<td>The DRC Government (DRCG)</td>
<td>In 1997, before taking power and being President of the DRC, Laurent Kabila was using the plane of the American Minerals Fields (AMF) and was in negotiation with the advisor of FQ. These companies received large contracts soon after (Dent, 2007). In January 2004, the Council of Ministers of the DRC government approved the creation of a joint-venture (JV) KMT owned by American Minerals Fields (AMF) (82.5%), Gecamines (12.5%), and the government (5%). In May AMF changed its name to Adastra Minerals (Register of African Mining, 2004/05). In April 2006, FQ took over the Adastra Minerals. In 2007, The government of Congo decided to revisit and renegotiate contracts with mineral companies. The failure to this renegotiation with FQ led to suspension and, later, cancellation of the contract. Congolese court gave reason to the DRCG. Curiously, the DRCG accepted a deal with another mineral company (TFM) (Canadian company equity: 25%) offering advantages similar to those previously offered by FQ, but rejected by the DRCG (Potentiel, 2010).</td>
</tr>
</tbody>
</table>
Table 2  Power game in the process of mineral contract between Gecamines and a foreign company (continued)

<table>
<thead>
<tr>
<th>Stakeholder</th>
<th>Examples of power in the privatisation process</th>
</tr>
</thead>
<tbody>
<tr>
<td>Foreign governments</td>
<td>Former Prime Minister of Canada was working as adviser of FQ. He negotiated with Congolese incoming president before he took power in 1997 (Dent, 2007; Philipovich, 2010). The same person was appointed by the Carter Center to be observer of 2006 elections in DRC (Gettleman, 2006). When the FQ contract was cancelled, Canadian officials attempted to intervene in World Bank and IMF meetings and in G8/G20 summits to increase criticism against the DRCG or delay decisions related to DR Congo debt facilities.</td>
</tr>
<tr>
<td>Civil Societies</td>
<td>Civil societies denounced unfavourable conditions of mineral contracts and called for renegotiation (e.g., Carter Center, 2007; RAID, 2007; BIC, 2007). About mineral contracts signed in 2005, SARW (2009, pp.5–6), for example, affirms “it is clear that the Congolese government did not sign in the interest of the people but in the interest of some individuals. The mining companies that signed knew that. They used this weakness to take the lion’s share of the deal. One civil society has noticed that the Government, despite its sovereignty, is incapable of imposing a line of conduct on TFM and KMT following their intransigence. This unhappy situation is due to the lack of cohesion within government”. One of these companies has been alleged by an NGO as having obtained a mineral land after having given US$1000.00 to each of the 15 Congolese negotiators and having promised support to the election campaign to the State President (Custers and Nordbrand, 2008). NGOs denounced the arbitrary and unfair decision making adopted by the DRCG against the FQ (Potentiel, 2010).</td>
</tr>
<tr>
<td>Corporations</td>
<td>KMT has succeeded to reduce the total amount of the capital US$ 135 million initially agreed to only US$ 21.5 million. It resisted to renegotiate the contract and wanted to pay 1.5% of royalties instead of 2.5% (SARW, 2009; DRC, 2007). It paid its equity and, in addition, it paid the Gecamines’ equity for the in terms of a loan and the DRCG equity in terms of a gift (DRC, 2007). After contract cancellation by the DRCG and failure in Congolese courts, it brought the issue to the arbitration court in Paris (Manson, 2010), in Washington, and sued the other company that replaced them in a new contract with the DRC for the same land (Jordan and Kavanagh, 2010). On January 5, 2012 First Quantum and the press announced that First Quantum reached an agreement with ENRC (the then purchaser of KMT) to settle all claims in relation to First Quantum’s DRC operations. ENRC will pay US$1.25 billion to settle all current legal matters for these interests.</td>
</tr>
</tbody>
</table>

When the contract of the company was cancelled by the Congolese government, officials from the country of origin of the expropriated company tried to retaliate against the DR Congo through international organisations. Civil societies tried to lobby against abuses made by foreign companies against Congolese interests. But they also lobbied against the unfair treatment of the foreign company by the Congolese government. This example illustrates some aspects of the relative importance of the power of the six stakeholders to the process of privatisation in Congo. The local community is not only absent, but it is even victim of the process. For example, the company illustrated in Table 2 proposed to compensate a village that had to be displaced with the loss of land, housing, and agricultural plants using Congolese standards that are insufficient for the loss by the community. For example, the Congolese government had fixed the compensation of 1 hectare of rice at US$450 or a hectare of maize at US$300. But these amounts are not only low for the value of produce on the field, but also for the fact that they do not pay attention to future earnings (KMT and SRK, 2008).
The relative power of the different stakeholders demonstrates that IFIs and foreign governments exercise strong power through the Congolese government. Corporations, especially multinationals, are also powerful, but indirectly through foreign or Congolese governments. Civil societies play the role of guardians of human rights by a systematic denunciation of abuses and coalition between powerful entities. The Congolese government, at the centre of the circuit of power, sometimes resists when it feels its interests threatened (e.g., case of the contract with Chinese) or to serve its own members (e.g., 150% increase of salaries for political members). The weakest of the circuit is the local community.

5 Impact of the privatisation

Measuring the impact of the privatisation of Gecamines is not straightforward due to the difficulty isolating its effects in a complex environment characterised by internal and external crisis and the absence of before and after data specific to the privatisation. Data published by IFIs are aggregated for the whole country. Nonetheless, after more than five years of privatisation, one should expect to see the Congolese economic and financial situation improved. The World Bank (2007) published an analysis of the social impact of the privatisation. A summary of this World Bank survey is presented. Additionally, selected economic and financial indicators of the situation in the DRC from 2000 to 2010 are presented. And finally, the position of the DRC in the rankings published by international organisations is explored.

5.1 Analysis of the poverty and social impact of the mine reform

The World Bank (2007) report indicates that in the short-term, the voluntary departure programme lead to inflation, exchange rate fluctuation, and abrupt cessation of access to education and other social services. In the medium term, the absence of wages and employment will be insignificant due to the advanced deterioration of the situation of Gecamines at the moment of privatisation.

According to the World Bank the layoff of employees resulted in the end of education for their children, lowering the quality of education in 73% of families. The World Bank report indicates (p.18) that a “significant percentage of the children of partans [dismissed] are involved in artisanal mining, which provides revenue, but carried with it issues of occupational health and safety, lack of environmental protection, child labor and other social problems such as increased drug use”. The report consistently pointed to the exposure of more vulnerable groups of employees to a higher risk of poverty after their departure from Gecamines. Overall, the survey stated (p.14) that “the departure from 30% to 40% of the staffs in these schools, clinics and hospitals also contributed to a decline in service quality and, eventually, to increases in prices of these services”.

In summary, the privatisation did not have a financial impact on employees as they were already unpaid for two years before takeover, but it reduced the quality and quantity of ancillary services to employees who used to depend entirely on the company. In some areas, the company was the only provider of such services. Therefore, the privatisation increased the poverty of the large majority of the population leaving in the region.
<table>
<thead>
<tr>
<th>Year</th>
<th>GDP per capita (in constant 2000 $US)*</th>
<th>GDP growth rate*</th>
<th>Customs and Excises*** (in Congo GFC)</th>
<th>Direct and Indirect Taxes*** (in Congo GFC)</th>
<th>Waged population*</th>
<th>% of Waged Population/Active Population*</th>
<th>Copper Production by GCM** (in tons)</th>
<th>Copper Production by GCM’s partners** (in tons)</th>
<th>Total Copper Production** (in tons)</th>
<th>Cobalt Production by GCM** (in tons)</th>
<th>Cobalt Production by GCM’s partners** (in tons)</th>
<th>Total cobalt production** (in tons)</th>
<th>Change rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>2004</td>
<td>84.8</td>
<td>6.6</td>
<td>104.1</td>
<td>71.4</td>
<td>12,380.2</td>
<td>35.6</td>
<td>7,691</td>
<td>11,304</td>
<td>18,995</td>
<td>1,412</td>
<td>8,555</td>
<td>9,967</td>
<td>+19%</td>
</tr>
<tr>
<td>2005</td>
<td>88.8</td>
<td>7.8</td>
<td>145.4</td>
<td>111.4</td>
<td>12,683.3</td>
<td>35.6</td>
<td>16,055</td>
<td>10,334</td>
<td>26,389</td>
<td>934</td>
<td>7,300</td>
<td>8,234</td>
<td>+624%</td>
</tr>
<tr>
<td>2006</td>
<td>91.0</td>
<td>5.6</td>
<td>195.5</td>
<td>157.9</td>
<td>13,093.9</td>
<td>35.9</td>
<td>24,201</td>
<td>74,920</td>
<td>99,121</td>
<td>738</td>
<td>14,646</td>
<td>15,384</td>
<td>+990%</td>
</tr>
<tr>
<td>2007</td>
<td>93.9</td>
<td>6.3</td>
<td>278.1</td>
<td>259.9</td>
<td>13,303.4</td>
<td>35.0</td>
<td>23,031</td>
<td>73,360</td>
<td>96,391</td>
<td>599</td>
<td>17,287</td>
<td>17,886</td>
<td>+32%</td>
</tr>
<tr>
<td>2008</td>
<td>96.8</td>
<td>6.2</td>
<td>427.1</td>
<td>430.7</td>
<td>13,037.3</td>
<td>33.4</td>
<td>23,475</td>
<td>311,592</td>
<td>335,066</td>
<td>314</td>
<td>42,147</td>
<td>42,461</td>
<td>+62%</td>
</tr>
<tr>
<td>2009</td>
<td>96.6</td>
<td>2.8</td>
<td>560</td>
<td>565</td>
<td>12,733.6</td>
<td>31.8</td>
<td>13,274</td>
<td>295,907</td>
<td>309,181</td>
<td>456</td>
<td>55,802</td>
<td>56,258</td>
<td>+900%</td>
</tr>
<tr>
<td>2010</td>
<td>100.5</td>
<td>7.1</td>
<td>754</td>
<td>778</td>
<td>13,175.5</td>
<td>32.0</td>
<td>20,015</td>
<td>477,522</td>
<td>497,537</td>
<td>877</td>
<td>96,816</td>
<td>97,693</td>
<td>+103%</td>
</tr>
</tbody>
</table>

Notes: *BCC. (2012) Condéndé hëbdomadaire d’information statistiques # 37/2012 p. 2
***All data are from IMF different DRC Country reports 03/161, 05/374, 07/327, 10/88, and 11/190. In case of discrepancy between data, we have retained the estimates in the most recent reports. The numbers are expressed in billions of Congo Francs (CFC). In 2000 USS 1 = 50 CFC and in 2010 USS 1 = CFC915.
5.2  Indicators of the recent social and economic situation of the DR Congo

Even if the Gecamines privatisation took place only in the province of Katanga, its
importance could have had an impact on the whole country. Table 3 presents some
indicators on the production of copper and cobalt (produced in the Katanga province), the
GDP, the revenues from taxes and duties, and the waged population.

From 2004 to 2010, the GDP per capita increased from 84.8US$% to 100.5US& in
constant $) and the GDP growth rate increased from –6.9% to 7.1%. Customs and excises
fees collected (in Congo GFC) have a rate of change of +754%. Direct and indirect taxes
have even done better with a rate of change of +990%. However the wages paid increased
by only +62% and the percentage of waged population relative to the active population
declined at a rate of –10%.

Therefore, the apparent spectacular increases in production and government revenues
were not even closely followed by the waged population. The government and
corporations benefitted from privatisation, but the citizens and local communities did not.

5.3  The DRC rankings

Rankings from different international organisations are analysed for this study. Among
these are the KOF Index of globalisation by the Swiss Institute of Technology, the
Economic Freedom of the World by the Fraser Institute, the Ease of Doing Business by
the International Finance Corporation of the World Bank, and the Human Development
Index by the United Nations Development Programme (UNDP). These indicators relate
directly to the object of this study even if they are affected by more factors than the
privatisation alone.

5.3.1  The KOF index of globalisation

The KOF index of globalisation (http://globalization.kof.ethz.ch/) introduced 2002,
measures three dimensions: the economic dimension (flow of goods, capital, services,
and market exchange information), political dimension (diffusion of government policies)
and social dimension (spread of ideas, information, images, and people). In the 2010
KOF index report (ETH, 2010), the DRC occupies the 168th rank for the global index out
of 208 countries. By dimension, the DRC is 208th on the economic dimension, 192nd on
social dimension, and 104th on the political dimension.

5.3.2  The Economic Freedom of the World (EFW) Index

The EFW index (http://www.freetheworld.com/reports.html) has measured five areas for
the past 25 years: size of government (expenditure, taxes and enterprises), legal structure
and security of property rights access to sound money, freedom to trade internationally,
and, finally, regulation of credit labour, and business.

In the 2010 report based on the 2008 data, the DRC was ranked 133rd out of 141
countries for the global index. On the different dimensions, the DRC was ranked 120th
for the size of the government, 141st for the legal system and property rights, 86th for the
sound money, 124th for the freedom to trade internationally, and 140th for the regulation.
The DRC global ranking has dropped from 122nd in 2000 to 133 in 2008.
5.3.3 The ease of doing business index and the human development index

The ease of doing business index is calculated by the International Finance Corporation of the World Bank (http://www.doingbusiness.org/) and includes 10 dimensions. In the 2010 report, the DRC was ranked 181 out of 182 countries.

The human development index has been published by the UNDP (http://hdr.undp.org/en/media/HDR_2010) since 1990 to indicate the level of development using three dimensions: life expectancy at birth, education, and income per capita. In 2010, the DRC ranked 168 out of 169 countries. This rank corresponds to a value of 0.153 while the average of Sub-Saharan Africa was 0.261. In 2011, the DR Congo ranked 187 out of 187 countries. This is surprising given the growth observed above. But it could be understood when considering other aspects such as armed conflict and the level of corruption that are persistent in the Congo. Another fact to observe is that the benefits received by the government are not contributing to the well-being of the population.

6 Discussion and conclusions

This paper aimed to examine the role played by different stakeholders in the privatisation of Gecamines and the impact of this process on the local communities. The analysis using Clegg’s (1989) circuit of power indicated that IFIs have significant influence over the process. These institutions are using both direct withholding and direct usage strategies in Frooman’s terms. These strategies are not therefore exclusive, at least in this situation. IFIs are strongly influenced by foreign governments who are themselves influenced by corporations. In the two situations, indirect withholding strategies are probably the most commonly used as the fear of missing financial contribution (taxes or fees) can have an impact on the behaviour of the target stakeholder. At the centre of these influences, is the Congolese government that tries to satisfy the interests of IFIs, foreign governments, and corporations while serving the interests of its own leaders sometimes through questionable means. In this process, local communities are the least consulted and they are the ones that suffer the most. They find some support from the civil society that denounces the abuses from the other stakeholders. However, the action of civil societies seems generally reactive, happening only when the damage is already done.

This study has revealed that the shareholder perspective adopted for the privatisation of Gecamines can help some rulers, and corporations, but not the local communities whose quality of life has deteriorated. Despite the astonishing increase in production and government revenues, indicating that the government and corporations are benefiting from the post-privatisation, the increase of waged workforce is low and the general figures indicate that the DR Congo is generally among the bottom ten of international rankings. Indeed, the situation of the local community has not improved, but has worsened. The government has not replaced the social services previously provided by the mineral company.

Such figures call for a change in the direction of the policies undertaken by different stakeholders. The awareness of the impact of their power (at the three levels) needs to be increased. Some impacts are intentional, but others may be accidental. Each stakeholder needs to be sensitised about the intentional and non-intentional implications of privatisation. The Canadian case of the Mackenzie Project illustrates the importance of
this awareness. Between the initial proposals of this project in 1970s to its implementation in 2000s, a huge difference in the involvement of different stakeholders was observed, especially the large part taken by the aboriginal communities, thanks to the awareness increase following the Berger’s inquiry and the diffusion of its report (Nkongolo-Bakenda et al., 2010).

The involvement of the local communities in the privatisation process is important. It will highly contribute to positive outcomes of this practice. But given the lack of power – and probably expertise – by the local community, it would be better to use the coalition strategy with the civil society. According to Polzer et al. (1998), the parties whose interests are compatible can easily form coalitions and these coalitions can more likely attain high outcome on issues on which their interests are compatible. Local community and civil society are both interested in well-being, fairness, and sustainable development of people. This common interest can cement these parties’ coalition and give them more countervailing power against other stakeholders. A balanced use of stakeholder power allows the consideration of the interests of different actors and the prevention of frustration and unnecessary conflicts. This could contribute to sustainable peace, benefits, and prosperity of involved partners to privatisation in countries with weak institutions.

Hall and Lobina (2004, p.274) although having found only negative effects of privatisations of utilities, had nonetheless affirmed that “examples given do not prove that corporate involvement in these sectors will always produce negative consequences – this would depend on the specific circumstances of each case”. The awareness about stakeholder power and the desire to see each partner involved is certainly part of specific circumstances. They are also part of what these authors call (by contrast to privatisation) “sound institutional and operating principles, including transparent and participatory systems of accountability” (p.275). Privatisation, in the Hall and Lobina’s (2004, p.224) perspective, operates in what Castaneda (2003) has called the ‘Crony-capitalist system’ where “capital is accumulated by businessmen who take advantage of their privileged position in the social hierarchy and membership in networks that provide them access to relational assets”. By contrast, privatisation in the context of stakeholders using balanced power operates in what this author has called “theory of rational choice with social embeddedness” where socioeconomic actors make rational decisions “in a setting in which social norms and networks condition the apparatus of decision-making. The economic structure is consistent with the political structure, and both are consistent with the power relationships within the social structure”. Such context is close to what Waddock (2008, p.87) calls “new institutional infrastructure for corporate responsibility (…) that attempts to effect change by using mechanisms such as peer pressure, visibility, rankings, activism, and, increasingly, mandate to pressure companies to improve their effects on people, the planet, and societies”.

References


Notes

1 The Paris Club is an informal group of financial officials from 19 of some of the world’s biggest economies, namely: Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Ireland, Italy, Japan, Netherlands, Norway, Russia, Spain, Sweden, Switzerland, UK, and USA.

2 The International Committee in Support of the Transition (Comité International d’Accompagnement de la Transition (CIAT) was presided over by the head of the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) and comprised representatives of the permanent members of the Security Council, other key bilateral partners, the European Commission, and the African Union. The committee was a kind of supervisor of the transition government before the 2006 elections.

3 Under the pressure of the IFIs, the agreement has been modified in 2009 to reduce the DRC government commitment.