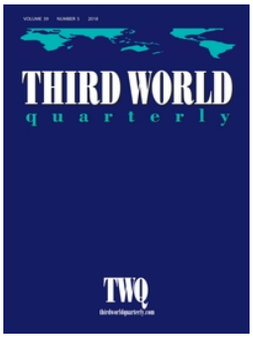

Third World Quarterly

ISSN: 0143-6597 (Print) 1360-2241 (Online) Journal homepage: http://www.tandfonline.com/loi/ctwq20

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To cite this article: Zoë Marriage (2018) The elephant in the room: offshore companies, liberalisation and extension of presidential power in DR Congo, Third World Quarterly, 39:5, 889-905, DOI: 10.1080/01436597.2018.1447373

To link to this article: https://doi.org/10.1080/01436597.2018.1447373

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Published online: 22 Mar 2018.

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THIRD WORLD QUARTERLY, 2018
VOL. 39, NO. 5, 889–905
https://doi.org/10.1080/01436597.2018.1447373

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The elephant in the room: offshore companies, liberalisation and extension of presidential power in DR Congo

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ABSTRACT
In the Democratic Republic of Congo, donors promoted rapid liberalisation and presidential elections in the aftermath of the war, and after two terms, President Kabila has not left office. This article engages with the question of how liberalisation and elections are connected, and how they are related to the extension of presidential power. It finds that the international market for minerals has shaped the domestic political economy but its nature has effectively been ignored in the formulation of donor policy; efforts at regulating trade have been concentrated on due diligence of origin in Congo but have not addressed the secrecy of international trade. Liberalisation has removed control of economic resources from Congo, provided returns for elite politicians and funded violence to control the disenfranchised population. The offshore companies are the elephant in the room; without acknowledging them, analysis of the liberalisation and its interaction with presidential tenure lacks assessment of the opportunities, interests and power that shaped the processes.

ARTICLE HISTORY
Received 1 September 2017
Accepted 27 February 2018

KEYWORDS
DR Congo
democratisation
liberalisation
conflict minerals
donors
offshore

Panama Papers and presidential terms

Since 2015, people in the Democratic Republic of Congo (henceforth Congo) have used the word *glissement* – slippage – to refer to President Joseph Kabila's efforts to push back presidential elections, originally slated for November 2016. The release of the Panama Papers in April 2016 published information regarding offshore investments including those relating to mining assets in Congo. Offshore companies have for some time been widely known to be operating in Congo, but the Panama Papers came at a critical juncture in Congolese politics as Kabila was coming to the end of his second presidential term. The constitutional requirement for the president to step aside after two terms in office was sidestepped when he gained leave to remain in post if elections were not held before the end of 2016.

The publication of the Panama Papers and the extension of Kabila's tenure place post-war donor policy in Congo under scrutiny. Liberalisation and presidential elections were donor priorities in the immediate aftermath of the Second Congo War, and this article investigates how they interact. It finds donor policy created the conditions for violent elections and promoted a form of liberalisation that shifted control over political and economic resources

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out of the country. The article argues that these policies pitted the interests of foreign business and domestic political elites against those of the majority of people in Congo. In explaining the conflict in Congo and the election delays, the offshore companies are the elephant in the room. Without acknowledging their presence and the nature of the international market, analysis of the liberalisation and presidential tenure lacks assessment of the opportunities, interests and power that shaped the processes.

Exerting or extending violent power by harnessing the trade of mineral resources is nothing new in Congo, but this article presents violence in structural terms relating to control of political and economic resources. Incorporating offshore companies into the analysis identifies the incompatibility of interests between the political elites and the population that intensifies a cycle of coercion and marginalisation that prolongs the presidential tenure. Analysing this as a form of violence presents a critique to the perspective that focuses on mineral sales from areas of open fighting: attempts to regulate the trade of minerals have been aimed at addressing their origin but have not taken into account the anarchic and secretive nature of the international market.

Minerals, land, cattle and secrecy jurisdictions

The article presents the sequencing of liberalisation and presidential elections, bringing data from major donor policy documents, lobby groups and journalistic sources. The processes are presented alongside accounts of the initiatives in Europe and the USA to monitor and regularise trade and elections cycles, and information from the Panama Papers. This selection of data is made to place the political and economic dynamics of Congo within the context of aid policy and international trade, providing a perspective on the market into which Congo's resources sales were integrated. In the aftermath of the Second Congo War, presidential elections were promoted by donors, who perceived them to be constitutive of democratisation.[1] Local elections were delayed and then postponed indefinitely; parliamentary elections were held in 2011. Conversely, Congo has hosted two presidential election cycles, and data is brought from 2006 and 2011, followed by a review of the negotiations that took place in the run up to the (postponed) 2016 elections.

The article presents a 'northern' perspective on aid; while there are many official and multilateral donors operating in Congo, there are important similarities between them. The ideological map drawn by the International Monetary Fund (IMF) and the World Bank, who have a long history in Congo, declared the country bankrupt in 1994 and spearheaded the liberalisation in the early 2000s. The depth of Congo's economic crisis after decades of kleptocracy led to the government signing the Millennium Initiative, committing to what was termed by the IMF a 'consensual vision of development' towards the Millennium Development Goals.[2] The year 2001 was effectively a new chapter as donors re-engaged in the country after an absence of almost a decade.

The International Financial Institutions (IFIs) restructured development programmes, including through an Interim Poverty Reduction Strategy Paper in 2002, to make bilateral and multilateral aid coherent,[3] and official donors provided some funding through multilateral agencies, principally the United Nations (UN) and EU; the United Nations Development Programme (UNDP) took a lead role in promoting the presidential election process. Extensive efforts have been made at donor coordination: in 2006 a Joint Intervention Programme was established, and later Department for International Development (DFID) became co-chair

of the Donor Coordination Group, which 'consists of around 20 bilateral and multilateral donors that are committed to working together'.[4] Belgium has historically been a large donor, but in recent years the USA and UK have consistently been the top two official donors, providing up to US$0.6 billion in humanitarian assistance and three times as much development aid, rising gradually over the past decade.[5]

Development policy is accompanied by other forms of pressure, including diplomatic relations and sanctions, and there have been some robust episodes of diplomatic engagement with regard to the regulation of mining in the wake of liberalisation and the promotion of respect for the election process. China has become a major player in the distribution of power since the Second Congo War; its influence is exerted primarily through infrastructure projects and concessions acquisitions rather than through development policy, although it has formed partnerships with DFID and delivered loans to the government of Congo.

Despite the enthusiasm of northern donors to fund presidential elections, research on the impact of aid on democracy is equivocal; some argue that there is a strong case for international funding for elections in Africa.[6] Others make the case that aid intensifies the inclination of the regime, with the outcome that democratic regimes perform more democratically with aid, and authoritarian regimes become more authoritarian.[7] These findings pose challenges to donors who have, for decades, struggled with the question of whether to support or abandon populations on account of the wayward behaviour of their leaders. Hagmann and Reyntjens track increasing donor support to authoritarian rulers on the African continent, in return for stability and positive development indicators. They note that while aid has a reputation as a moral imperative or engagement, 'economists predominantly view international aid as a rent that accrues to recipient countries, often with negative effects'.[8]

The literature on war economies[9] and warlordism[10] that explains how access to resources fuels violent conflict is of particular significance in central Africa where several presidents have histories in insurgent forces.[11] Work on war economies has been developed in the Congolese case to chart the economic incentives for violence within the dynamics of military and militia activity.[12] One strand of this literature has inspired a policy angle focusing on the relationship between mineral trading and violent hostilities, and since the UN Panel of Experts reports in the early 2000s,[13] illegal mining has become the dominant explanation of the conflict.[14] Meeting these arguments are contributions that have analysed particular elements or moments of fighting in eastern Congo, bringing into focus local-level dynamics,[15] including group rivalries,[16] cattle[17] and land.[18] By identifying dynamics that are not primarily economic, these perspectives provide a riposte, and a different set of policy implications, to the literature on conflict minerals.

The argument presented in this article complements such contributions in that it also critiques the conflict minerals analysis, but it identifies a conflict in the incompatibility of interests between those who control political and economic power and those who are excluded from it. It borrows from the rentier state model as the mechanisms of accumulation by the state agents are similar, but the enquiry focuses on the role that the liberalisation and presidential elections have played in furthering this form of accumulation. The rentier state analysis has been influential in explaining the behaviour of African states since the 1990s[19] and in some ways makes it harder to explain why aid policy – particularly that relating to democratisation – is implemented in ways that incentivise states to forge lines of accountability to foreign actors rather than to their own populations.

A lead in broaching this question is provided by literature that addresses the nature of the Congolese state. MacGaffey, writing about Congo (then Zaire) in the 1980s, coined the

term 'real economy' to avoid binaries of legal and illegal, licit and illicit, formal and informal, given the nature of the state's political and economic practices and the involvement of nominally formal state agents in non-formal economic activity.[20] Trefon makes similar observations about the expanse of the informal sectors 20 years later, after two pillages and two wars.[21] Another binary is confronted by Moshonas' work on the donor-funded reform agenda; he argues that instead of gauging success or failure, analysis needs to explore how outcomes of aid policy are co-produced by aid providers and domestic political elites.[22]

A complementary perspective is offered by de Waal's concept of the political marketplace, which also steers analysis away from binaries of success or failure by examining political and economic relationships and the interaction between them. He analyses the way powerful players trade not simply commodities, but loyalties, with the aim of stabilising a system that is beneficial to their interests.[23] His work has been followed up with regard to Congo by Raeymaekers,[24] and is helpful in shifting the discussion from one of material resources and direct forms of violence to an analysis of political resources and the control they afford. Bringing together the literature on war economies and the nature of the Congolese state provides a perspective on the uneven integration into global markets, but highlights two more specific avenues for enquiry regarding the impact on political privilege and the use of violence. First, how are liberalisation and presidential elections linked to the extension of presidential power, and, secondly, what are the implications for the analysis of the conflict in Congo?

Liberalisation

The rapid liberalisation of the economy in May 2001 – before the end of the war and without consultation in Congo – established the conditions for donor re-engagement in Congo. The World Bank promoted the Mining Code in 2002 in which 'the role of the state is reconfigured and seen above all as that of facilitating investment and regulating mining activity' with 'one of the most liberal tax and customs regimes in Africa'.[25] By 2003, the IMF country report recorded that the elimination of distortions in the foreign exchange market, the liberalisation of prices and the mining and forestry codes had enabled the IMF to 'implement a policy environment supportive of economic growth and private sector activity … and re-establish the conditions for investment'.[26]

Improved macroeconomic stability together with the injection of aid resources precipitated a sustained upturn in the country's gross domestic product (GDP) per capita, well above the sub-Saharan Africa average.[27] The establishment of the Transitional Government in July 2003 generated perverse incentives for those in public office. Short time horizons and little oversight enabled office holders to extract rents on aid and take advantage of an unregulated process of liberalisation.[28] Christophe Lutundula, Deputy President of the National Assembly, was charged with investigating mining deals made during the Transition; his report advocated halting some of the deals,[29] but it was delayed and never formally discussed, and its recommendations were not implemented.

Kabila and his aide Augustine Katumba Mwanke were increasingly associated with an Israeli businessman, Dan Gertler, who arrived and left Kinshasa by night in a private jet. Gertler is named in more than 200 files in the Panama Papers; as the liberalisation facilitated foreign investment, he bought Congolese mining assets and sold them on at profits of thousands of percentage points to companies registered in the British Virgin Islands, the

Cayman Islands and Bermuda.[30] In 2005, Gertler formed Global Enterprises Corporate (GEC), the chief assets of which were two huge copper mining projects in the province of Katanga, collaborating 75%:25% with Congo's defunct national copper company, Gécamines. Despite being criticised in the Lutundula Report, the collaboration was ratified by the president. Couched in a company registered in the Isle of Man, and following a London roadshow in 2006, Gertler's investment of £3 million was valued at more than £1 billion. Gertler has built an estimated US$2.5 billion empire since his arrival in Congo in 1997.[31]

The mineral wealth in Congo is estimated at £24 trillion[32] and the sector continued to be presented by DFID as the driver for development.[33] Donor literature routinely observes Congo's mineral potential; DFID for example claims, 'DRC has the potential to become an economic player and have a positive role in supporting peace and development, with vast mineral wealth'.[34] The World Bank states

> the Democratic Republic of the Congo (DRC) is a country with vast resources... [with] over 1,100 minerals and precious metals identified, the DRC has the potential to become one of the richest countries on the African continent and a driver of African growth.[35]

In 2007, DFID released a paper called 'Trading for Peace. Achieving Security and Poverty Reduction through Trade in Natural Resources in the Great Lakes Area'. The same year, Congo started implementing the Extractive Industries Transparency Initiative (EITI); the EITI had been initiated by former UK Prime Minister Tony Blair as a means of tackling the trade in conflict minerals. 'Despite the country's vast natural resources', the EITI reported, '63% of the 75 million Congolese citizens were living below the poverty line of less than one dollar per day in 2012 according to the World Bank. It is in this context that the government of the DRC committed to implement the EITI to attract foreign direct investment to revive the mining sector and ensure that revenues are well managed for the benefit of all citizens'.[36]

Attracting investment was not in practice a problem. Chinese investment leapt from US$1 million in 2000 to US$1.6 billion by 2008;[37] the IMF noted the development with 'concern' as the investments offered Congolese politicians alternatives to the concessionality of Heavily Indebted Poor Countries Initiative (HIPC) debt forgiveness.[38] In 2010 the US Congress passed the Dodd–Frank Wall Street Reform and Consumer Protection Act, article 1502 of which related specifically to Congo's tin, tantalum and tungsten trade. The Congolese government voiced support for the Act, which required supply chain due diligence to determine whether minerals originated in areas affected by conflict and had been traded through army or insurgent channels. The act imposed only a disclosure requirement, rather than a penalty, that potential buyers should report egregious minerals to the Securities and Exchange Commission (SEC). The Organisation for Economic Cooperation and Development (OECD) and the International Conference on the Great Lakes Region instituted a Mineral Certification Scheme for the same three minerals and gold (on the model of the Kimberley Process for diamonds) in 2011. Pact, a non-governmental organisation (NGO) funded by USA Aid (USAID) captured the due diligence approach in its claim, 'In the mining sector, Pact works in partnership with government, industry and civil society to help ensure that minerals make it to international markets without interference, promoting development rather than conflict'.[39]

De Villers notes that despite reservations about the government's behaviour, donors continued to operate in Congo on the basis that it was a special case.[40] 'This specific treatment is due to several factors', writes Moshonas, 'including the need to safeguard international investment in a wider sense, particularly the stakes represented by DRC's natural resource wealth, especially mining'.[41] In 2010, Kabila signed a presidential decree granting oil

concessions in Lake Albert to Caprikat and Foxwhelp, two companies registered by Mossack Fonseca in the British Virgin Islands; the Oil Minister announced that Gertler was associated with these companies.[42] DFID's position with regard to the market became more overt; its operational plan for Congo for 2011–2016 stated, 'the portfolio of our projects is already shifting to deliver a more coherent, focused and ambitious approach to economic development. We are helping to build strong and investable business environments in developing countries and improving access to finance for entrepreneurs'.[43] British Member of Parliament (MP) Eric Joyce published a list of 59 shell companies operating in Congo in 2011; 47 of them were registered in the British Virgin Islands, an overseas territory of the UK.

In the House of Lords, Lord Chidgey posed the question:

> To ask Her Majesty's Government what has been their response to reports that state-owned mining assets in the Democratic Republic of the Congo have been sold over the last two years to offshore companies for less than one-twentieth of their commercial value.

The UK response was to reiterate support to the EITI and PROMINES, a programme aimed at increasing transparency. Regarding the extent of British offshore companies' involvement in Congo, Lord Howell of Guildford stated, 'I urge all companies listed on the Financial Times Stock Exchange (FTSE) 100 to observe the highest possible standards and disclose their activities in the way we would expect of responsible companies'.[44]

The donor policy of liberalisation failed to control the activities at the source, partly because it overlooked the shell and offshore companies that provided a market for minerals and that were characterised by secrecy and tax evasion. These companies defined the conditions in which the mineral sales from Congo took place, and 'urging' them to observe standards was counter to their rationale. The OECD uses the term 'base erosion' to refer to the weakening of the tax base of the countries hosting such companies. The World Bank recorded that 'despite an impressive economic growth rate … the country is among the poorest countries in the world'.[45] The UN's 2014 Group of Experts report found that 98% of gold was being smuggled out of Congo, the majority of it being taken to Uganda and sold on through Dubai.[46] DFID reiterated its support to 'mining sector reforms aimed at breaking the link between the illicit exploitation of natural resources that fuels conflict'.[47] In a similar process, the EU voted on 20 April 2015 for a mandatory monitoring system, affecting 80,000 companies, for minerals originating in areas affected by conflict. The emphasis on conflict minerals focused on their origins and was accompanied by a long-standing UN and EU arms embargo, updated four times since the end of the war.

Removing control

The liberalisation of Congo's economy and mining was rapid and the lack of oversight implicated donors in its illiberal outcomes. It took place alongside attempts in Europe and the USA to regulate the mineral trade from eastern Congo through embargoes and due diligence measures, and the dominance of the discourse of the trade as a driver of conflict made this regulation a logical priority for lobby groups and policymakers. The secrecy jurisdictions and offshore companies, though, and lack of oversight mean that due diligence at the source becomes inoperable.

This situation had political ramifications: the timing of the liberalisation – just after the war – meant that decisions about aid and liberalisation were taken by a small number of donors and that Congolese companies (with the partial exception of some defunct public entities) could not compete with foreign businesses for concessions sales. Consequently,

the sales facilitated by the policy were shaped by inequalities of information, and political favour.[48] Control over assets was removed from Congo and the population was excluded from debates and decision-making on resource extraction, and marginalised by the development agenda. Even the Congolese state, outside the inner circle of beneficiaries, could not investigate the activities of companies.[49] With the government reneging on pledges of transparency,[50] the distribution of power was contested internationally between companies based in the Global North and China. As the macroeconomic situation improved, the interests of the political leadership (bound into taking advantage of the processes and irregularities of liberalisation) and the population (concerned for employment, capital and political inclusion) became increasingly polarised.

Presidential elections

The Global and All-Inclusive Accords brought a formal end to the Second Congo War in 2003, and belligerents from the major fighting forces were incorporated into a transitional government comprising four vice presidents and a president, the incumbent Joseph Kabila. The transitional government was in no way representative,[51] and the front-runners in the first elections, in 2006, were Joseph Kabila and Jean Pierre Bemba, the leader of the Movement for the Liberation of Congo, a militia backed by Uganda during the war. Presidential elections concluded the transition; they were organised by donors and funded by US$460 million of aid money.

Kabila styled himself as the 'calm force' (this appeared on his election propaganda); trained in the military academy in Beijing, he had already been president for seven years at the time of the first elections, having inherited the position from his father, Laurent Kabila, who had taken the presidency by force in 1997. Joseph Kabila was protected by the Presidential Guard, a unit outside the regular command structure of the army and not included in the donor-funded demobilisation or army reform programmes. The political opposition and the involvement of the population in the elections were controlled by force: fire-fights between Bemba's and Kabila's supporters, and shooting on the streets of Kinshasa, which left dozens of people dead, exerted violent authority and demonstrated the nature of political power. Kabila's victory after a run-off in 2006 was the result of the first multi-party election in 46 years. Kabila accused Bemba of high treason, and Bemba left the country on medical grounds.

Heightened mineral sales in 2010–2011 contributed to the presidential campaign of the second set of elections, held in 2011.[52] The elections cost over US$1 billion and were funded chiefly by Congo, with around 40% coming from international donors (*Guardian*, November 27, 2012); the oversights in the first election made it more difficult for donors to manage an equal race. The elections were contested between Kabila and veteran politician Etienne Tshisekedi, and were decried by international observers. The Carter Centre declared the elections 'too flawed to be credible', and reservations were voiced by France and the USA, and the EU observer mission.[53] Kabila's power was ostensibly legitimised by his victory, though, allowing donors to engage more closely through bilateral aid.[54] Tshisekedi had support of his home region, Kasai, but was out of the country for the majority of the election campaign and asserted himself through bureaucratic filibustering.[55] In controversial and violent circumstances Kabila claimed the victory, as did Tshisekedi three days later. Kabila put Tshisekedi under house arrest and he left the country on medical grounds soon after.

The shortcomings of the 2011 election led to political stand-off and rumours that Kabila would seek to retain power; a National Dialogue was opened in September 2013 with aim of breaking the stalemate. Tshisekedi refused to participate, still claiming to have won the 2011 election. Local elections were postponed indefinitely in 2015 and strikes and protests began early in the year as the population reacted to the attempts by the president to alter electoral laws. Decentralisation, including splitting 11 provinces into 26, was mandated in 2006, and provisions were made for 40% of revenue to be managed at the provincial level, with the other 60% going to Kinshasa. It was finalised in June 2015 but was widely perceived as a delaying tactic on the part of Kabila. The census, which had been a divisive issue in the election processes of 2006 and 2011, was not carried out.

The estimated cost of the third election was US$1.4 billion, and the government was facing a shortfall of US$900 million. In May 2014 John Kerry, US Secretary of State, pledged US$30 million for the campaign on the condition that Kabila did not stand beyond his two-term limit.[56] This was a modest pledge, and it did not make the USA crucial to the process, but it did signal the US's disapproval of Kabila's continued tenure. The same month, the US envoy to the Great Lakes, Russ Feingold, reiterated Kerry's position, calling on Kabila to respect the constitution. There was little donor economic support for the 2016 cycle; the government requested US$300 million.

Having written three times to the president to reject the notion of an extension of power, a group of seven opposition parties, known as the G7, allied against Kabila. Moïse Katumbi, who had left the president's People's Party for Reconstruction and Development (PPRD) in September 2015, emerged as leader of the G7 and a credible contender. Katumbi was a civilian and a millionaire, with popular support and a political track record in the south-eastern city of Lubumbashi. As political momentum and support gathered, Katumbi was accused of forging property documents and hiring mercenaries – essentially a treason charge – and left the country on medical grounds in May 2016.

With violence escalating in the political arena, the headquarters of three opposition parties were burnt down in September 2016, causing casualties, and the same month, the opposition walked out of the National Dialogue. More than 50 people were killed during protests in September and October, and the Catholic Church also withdrew from the Dialogue. The Electoral Commission suggested that it would take until November 2018 to compile electoral rolls. In the face of the strikes and protests, direct violence became generalised and the government invested in riot control vehicles and stun grenades, among other weaponry, to contain the population.[57] In October 2016, the National Dialogue agreed to an extension of Kabila's power until April 2018. Two months later Kabila and Tshisekedi signed the Saint Sylvester Agreement to hold elections before the end of 2017.

Bemba was gaoled for 18 years beginning in June 2016; Katumbi could not return without risking a imprisonment; Tshisekedi died in February 2017 at the age of 83. Kabila made opposition politician Samy Badibanga Prime Minister in November 2016 in an attempt to calm the political situation by sealing a deal with minor parties. Talks to end the crisis collapsed in March 2017 and Badibanga stood aside the following month; a new government was formed in May. Kabila stated in an interview that, 'I didn't promise anything! I'd like elections to take place as soon as possible. But we want perfect elections, not just any kind of elections'.[58] With opinion polls showing Kabila's popularity at 7.8% (*Guardian*, November 21, 2016) he had little motive to initiate proceedings, and the *glissement* continued.

Imposing violence

Gauging Congo's political climate involves asking not so much who the population would vote for but how power is sustained. Congo has never seen a peaceful handover of presidential power, but Kabila's career is singular in that two multi-party elections have reinforced his power. The violence of removing the population from the processes of presidential elections was meted out directly by security forces that attacked opposition rallies and supporters. Violence has been part of presidential elections and the political arena more generally but intensified as Kabila looked to extend his tenure and the population contested it. The 2006 elections saw running battles between the forces of the two presidential candidates; by the latter part of 2016, street protests were routinely met with violence. The province of Kasai, an opposition region, became the site of insurgent hostilities and government attacks from August 2016, escalating at the beginning of 2017, with up to 1000 casualties;[59] countrywide, 1176 extrajudicial killings by state agents were recorded in 2017 (*The Guardian*, January 25, 2018).

There is also indirect violence that takes place in the destitution that curtailed or disrupted political engagement and subjected people to a climate of fear and instability. Alongside continuing high levels of poverty and unemployment, much of the population in Congo is ineligible to vote due to lack of population data and out-dated electoral rolls, and many people do not have a strong understanding of, or confidence in, the process; in 2011 the votes were not systematically counted.[60] The electorate has become practically irrelevant to the extension of presidential power.

The elephant: offshore companies, liberalisation and the extension of presidential power

How are liberalisation and presidential elections linked to the extension of presidential power? Donor policy to liberalise and host presidential elections in Congo has extended Kabila's tenure through two interconnected and mutually supporting mechanisms that shifted control of resources outside the country, and imposed forms of direct and structural violence that prejudiced the population. As such the liberalisation was anti-democratic and engendered the conditions for extended rule as Kabila enforced stability to provide an environment favourable for foreign investments. Opinion polls – and Kabila's stalling – indicate that the president could not retain power through a vote. Abrahamsen argues that democracy is often trumped by security or trade considerations,[61] and in Congo the incorporation of warlord economics into the political arena decreased the threat of a return to international war. It also, though, fuelled a form of violence against the population as their containment was a prerequisite for the co-production of elite rents from international competition over mineral wealth; the resulting turbulence renders elections practically infeasible.

De Waal notes that 'the monetisation of politics is one of the biggest transformations in African political life in the last 30 years', providing political elites with enhanced campaign budgets and access to finance for trading loyalties. As politics is monetised, the ability to pay for support becomes defining in political careers and support, effectively dispensing with political debate; the monetisation of politics is a radical form of liberalisation as favour is bought and sold. The concept fits with de Waal's earlier work on the political marketplace, which warned about the possibility of external interventions disrupting national political

bargaining.[62] In line with this argument, the external interventions that promoted rapid and unregulated liberalisation in Congo provided a key source of funding for political elites alongside donor backing or oversight for Kabila during two election cycles. This support was decisive in granting him sufficient economic and political advantage over any opposition for his power to become increasingly unassailable.

The Panama Papers reveal a vast trading network in which legality and illegality, and formality and informality, are indeterminable. When they were released, government spokesman Lambert Mende made clear the sensitivity of the revelations to the Congolese government. Veteran researcher Jason Stearns was expelled from the country on a residency technicality, having revealed the names of officials implicated by the Panama Papers leak. Mende announced, 'You have to be very careful [before] naming names because you may end up in court and then say that there is no freedom in Congo … but people are also entitled to their honour'.[63] His statement was not a denial of government involvement in offshore companies; it was more of an acknowledgement, alongside the assertion that secrecy and the rewards it brought were a privilege of public office.

In a further development, as the elections slipped, violence against political protesters escalated and the National Dialogue faltered, the US Justice Department and SEC fined the hedge fund Och-Ziff Capital Management Company in October 2016 under the US Foreign Corrupt Practices Act. Following a five-year investigation, the bribery allegations of conspiring to pay off officials exposed Gertler as the company's front man in Congo, alongside Kabila and his now-deceased aide, Katumba Mwanke, as recipients of over US$100 million in bribes.[64] Barnabe Kikaya Bin Karubi, the president's chief diplomatic adviser, held, 'For us an attack on [Gertler] is an attack on the Congo … Mr. Gertler's businesses are legitimate. He pays his taxes, making a good contribution to our government in monetary terms'. Och-Ziff, conversely, publicly pleaded guilty and agreed to a fine of US$412 million.[65] The case was singular in pursuing the hedge fund rather than the origin of the minerals.

What are the implications for the analysis of the conflict in Congo? The coming together of the Panama Papers with the extension of presidential power in Congo exposes a seam of incompatibility and structural conflict: between the interests of Congo's political elite and foreign donors and businesses on one side, and the population on the other, over the control of the economic resources of the country. The rapid and large-scale sale of resources that resulted from the liberalisation forged a connection between the lawless domestic situation and the anarchic international market. Clarifying how this distributed resources, Global Witness's *Out of Africa* report estimates that Congo suffered US$1.36 billion in lost revenue during the last election cycle, all of which has been routed out of Congo through British tax havens, with many of the companies listed on the London Stock Exchange.[66] The High Level Panel on Illicit Financial Flows from Africa found that of the US$50 billion of lawful extraction from Africa, 60% is from tax avoidance through offshore companies, and a large slice of the remainder is from organised crime; corruption is responsible for a smaller sum.[67] It drew particular attention to Congo as the second biggest diamond exporter and the biggest exporter of cobalt.[68]

Through the policies of liberalisation and presidential elections, the economic interests of donors and businesses have shaped political configurations of violence in Congo. The situation resembles the political arrangements between African elites and Western patrons of the Cold War, and the distortion of liberal ideals threatens to embarrass donors as apparently democratically elected leaders set down roots. The current stalemate recalls the USA's

position in the Cold War of 'Mobutu or chaos': as occurred during the Cold War, the political situation, having served donors satisfactorily, has twisted out of their control, while minimally satisfying their purposes of promoting the trade of Congolese minerals on the global market. The difference in the contemporary setting is that donors face heightened competition in the political marketplace as business offers elite politicians more favourable terms of engagement than aid: returns from offshore companies bring no conditions or time horizons.

When explaining conflict in Congo and the extension of presidential tenure, shell and offshore companies are the elephant in the room. The opportunities they present exert a powerful sway over the formation of the national political economy, particularly with the monetisation of politics and the formation of strategic alliances with individual politicians. Kabila has not accepted the tenets of liberal democracy; he, along with the other leaders in the region, shows no willingness to cede power. Across central Africa presidential elections have served to legitimise incumbents in ways that are not convincing in the details:[69] one-party politics has been co-produced by presidents and aid donors, and without a distribution of power to the population, emancipatory national development is stymied.[70] For the population in post-war Congo – and Uganda, Rwanda and Burundi – there has been a liberalisation of sorts, but there has been no difference in outcome between having elections and not having elections.

Conclusions

Kabila may capitulate in the face of unacceptable costs, but he has already extended his power, and the fact that his situation is mirrored by others in the region indicates generalised malaise. There has been a transformation over the course of Kabila's career, and there is distance between his haphazard and violent control, Kagame's more constant grip on political dialogue,[71] and the architecture of repression that has characterised elections in Uganda and elsewhere.[72] There are differences in the political and economic situation of each country, but there are similarities in that all the presidents have served in insurgent forces and (with the exception of Kabila who inherited power from his father) gained power through force; they are also united in their ability to gather rents to maintain – often violent – control over marginalised and disaffected civilians. The centrality of violence to gaining and retaining control over the state marks the overlap between the war economy and political power. There is also practical uniformity with regards to the involvement of offshore companies: the International Consortium of Investigative Journalists (ICIJ) analysing the Panama Papers found that 52 out of 54 African countries host offshore companies.

The offshore companies provide the interface between politicians and commercial activity, and 'politician' is the most cited profession of people named in the Panama Papers.[73] The political and economic incentives for elite politicians are vested in an offshore system that has no regulation or oversight, and the Panama Papers present a global economy that resembles MacGaffey's portrayal of Zaire's 'real economy' in the 1980s in which there was no distinction between legitimate and illegitimate: it is the real global economy. It is by means of this real economy that loyalties are traded, not simply to win elections but to arrange configurations of power that are violently stable, and post-political in being monetised.

The revelations of the Panama Papers make clear the partiality of the narrative of the conflict minerals model both as a diagnosis of the conflict and as a prescription of how to address it. The violent situation in Congo and the obstacles to regulating international trade

complicate liberalisation policy formulation, but policy that ignores the nature of the international market is unlikely to fulfil its stated objectives. The implication of the analysis in this article is that offshore companies are a source of conflict as they render the interests of the leadership incompatible with those of the population. The US placed sanctions on Gertler in December 2017, but navigating or modifying interests that are incompatible requires addressing the architecture of the international market, including the oversight of tax havens and the policies of liberalisation in countries that have weak institutional infrastructure. It involves the UK government taking responsibility for its co-production of aid outcomes and for trading that takes place at home and in its overseas territories. The UK state's interests are tied to the estimated £3 trillion of African resources controlled by companies registered on the London Stock Exchange.[74]

The extension of presidential power has been fuelled by liberalisation, election cycles and the accompanying reproduction of violence and destitution. There are several reasons for the continuing fighting in eastern Congo, and mineral trading is part of a web of social, political and economic relations that includes state and non-state actors. The conflict of interests between the population and the clique of political elites and their foreign contacts does not negate other forms of violence in the east of the country or their causal explanations, and indeed potentially feeds into them through predation and militarisation, including in the land conflicts, factionalism and destitution that characterise Congo's political make-up. Rejecting the focus on the domestic dynamics of illicit trade, though, opens a more encompassing explanation of Congo's political economy; in doing so it provides a broader perspective and the possibility of formulating policy that alters international power relations and the opportunities they present, rather than reinforcing the hierarchy. With this comes the potential of breaking from the abuse of the past and present.

Disclosure statement

No potential conflict of interest was reported by the author.

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