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A country at the crossroads:

How to bring transparency and security to the DR Congo's extractive industries - and why this matters to the world economy



Ladies and Gentlemen,

It is an honour to be addressing you today at this Special Lunch at the IEA.

There are many famous politicians and economists that have spoken at this Institute, and I am privileged to join them today.

I think I boast without any fear of inaccuracy that I am the very first parliamentarian from the Democratic Republic of Congo to speak here.

Though perhaps I should not be too boastful. As an African Proverb explains “When a head is too big it cannot avoid punches” – and I would like you to be considerate in the questions you put to me following my address!

I was keen to speak at the Institute of Economic Affairs specifically because of its reputation as a free market institute that promotes the rights of individuals to make their own social and economic choices.

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It has long been said by African leaders that the continent is not ready for its citizens to make their own choices.

They say the people need to be guided, not enabled to choose.

They say people do not want choice through democracy and freedom of speech when they are, every day, desperately seeking food to put on their tables for themselves and their children. Food yes, but rights and democracy? This can wait.

This, they say is what matters.

Africa has long been the continent of big men with big, socialist dreams.

This combination has not been a success.

However, today we are not here to discuss democratic development – rather we here to discuss the mining industry.

But there is, however, an important connection.

So before I address the main issue of our lunch today it is important for me to explain what this connection is.

The Democratic Republic of Congo should be rich, but it is poor. There are many causes for that poverty, not least two Civil Wars of the late 1990s and early 2000s.

But the root cause of the DRC's poverty is kleptocracy.

From the time of General Mobutu who came to power in the 1960s, the DRC or Zaire as it was known during his rule, became renowned across the world for unsurpassed levels of corruption and unchecked power in the hands of one man.

When thinking of an example to explain the burglary of a nation's resources, it is worth remembering that when Mobutu had one of his many palaces built in Zaire, his most extravagant in the north of the country had a runway constructed long enough for Concorde to land there.

When Laurent Kabila's rebel forces finally took the capital Kinshasa in 1997 at the end of the first Congo War, they found the account of the country's central bank only contained 20 French Francs.

Just 20 French Francs. Everything else had been stolen or spent.

How could this situation have come about?

At independence in 1960, DRC was the second most industrialised country in Africa, after South Africa. It had, on the surface, great prospects.

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Yet the rule of law, transparency in government and business life – all underpinned by democracy – was never developed.

The activities that lead men to build private runways for Concorde and leave the country with 20 Francs to its name, happen because the government in power believe their power cannot be challenged, and this ultimately means being challenged at the ballot box.

As General Mobutu once said, “There’s a reason it’s called THE GENERAL election”.

Fast forward 50 years from independence to the present day, and there are warning signs the current Administration does not intend to listen too strongly to the views of the electorate either.

The old kleptocratic ways may be creeping back.

I am no supporter of President Joseph Kabila, as I was no supporter of his father, President Laurent-Desire Kabila.

Kabila the father was instrumental in destroying the transitional government arrangements that had been negotiated with Mobutu in the early 1990s and were moving the country to multiparty democracy, during which time I served in a range of Cabinet positions.

Kabila the son began his unexpected Presidency in 2001, after the assassination of his father.

To many, this was a fresh start – Laurent Kabila was viewed by very few as suitable for the leadership of a nation.

Surely his son would be better, or at least could not be worse?

It is important to be generous and say that some things have improved under the rule of Kabila Junior. There has been a peace of sorts. The country held a General Election in 2006. There has been investment in the country, particularly in the mining sector.

However, so much more could have been done.

In terms of nation building the last 10 years have been wasted.

It might be said that 10 years is not a long time to institute far-reaching changes, but when the average life expectancy of Congolese is 46 years, that’s a quarter of most of the populations’ life.

Most government structures remain unreformed since the time of Mobutu.

Because central government’s power is so weak outside of the capital, Kinshasa, laws are passed than can never be monitored or enforced.

There may be greater peace than before, but that is as much because people are exhausted by war than because security has been improved.

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There continues to be appalling and well-documented human rights violations in the eastern Region, including torture, enslavement and the mass rape of women.

Now I know the IEA is known for its Libertarian streak, but for any of you here today who might think this lack of government is a good thing, you would be mistaken.

What we suffer from is a lack of governance, which creates anarchy.

We also have an Administration which spends far too much time on matters of dubious benefit to the general population – taking actions and passing laws that really only benefit themselves.

And the consequences of these actions can be devastating to the people of the Democratic Republic of Congo.

Take, for example the curious case of First Quantum Minerals.

An Anglo-Canadian Mining Corporation listed on the London Stock Exchange, the company has invested nearly \$1 billion dollars since 2001, and in 2009 it was the country's largest taxpayer.

It held the rights to three mines – the largest, a copper mine at Kolwezi, saw the company invest \$750 million dollars in the project, in conjunction with the International Finance Corporation – part of the World Bank - and South Africa's Industrial Development Corporation. The DRC Government's state owned mining company Gecamines became a shareholder, though without investing.

First Quantum did not just invest in its mines, but in its workforce. At two Mines – Kolwezi and Frontier – they built health clinics for mineworkers, their families, and for residents of neighbouring towns.

A malaria control programme was established.

A local hospital's operating theatre was refurbished and reequipped.

An antiretroviral programme for HIV sufferers was funded and medical staff trained to monitor and disperse treatment.

A microfinance programme for the rural poor was started.

Business development training for local SME businesses was begun.

This was funded by private monies, not state investment.

And in 2009 all of this was taken away from First Quantum.

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Two years earlier President Kabila had set up a review of all mining contracts granted in the immediate aftermath of the civil war when DRC was least equipped to strike fair commercial deals. Many supported this review, including myself.

However, the First Quantum deal was not negotiated under previous legislation from that time, but under the current laws. It was negotiated with the support of, investment by, and agreement of the World Bank.

Yet with the encouragement of the World Bank and in a spirit of partnership, First Quantum agreed to the review nonetheless.

In September 2009 the company found their mining contract had been terminated and its assets seized due to the alleged non-payment of royalties and failure to adhere to an agreed commercial exploitation timetable.

The company disputes this, and with the support of the World Bank and also the South Africa's Industrial Development Corporation in 2010 they brought the case to international arbitration before the International Chamber of Commerce in Paris.

As part of that arbitration the ICC ordered the Kabila Government to postpone any further decisions in relation to the assets.

Yet in August 2010 it was announced that Eurasian Natural Resources Corporation – ENRC for short – another London Stock Exchange listed company originating from Kazakhstan was the new owner.

The international outcry against ENRC's acquisition has been well reported in the international media.

Any city analyst will tell you that their shares trade at a discount because of this deal.

What is less well known is that the deal was brokered by a friend of President Kabila. The gentleman in question, Dan Gertler, is also a shareholder in ENRC, and famously one of the President's wedding guests.

Now perhaps it is not unexpected for senior politicians to have friends in business and that they may even wish to invite them to celebrate their nuptials.

But, for any of you here who are married, I would be surprised if your wedding guests had been cited in international business arbitration cases!

As a result of this case, risk insurance for doing business in DRC has increased by 18% since 2010.

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Labour MP Eric Joyce, Chairman of the All Party Parliamentary Group on the Great Lakes of Africa, has referred ENRC to the Serious Fraud Office. Joyce has request an investigation under the Bribery Act.

I will leave you to decide whether the ENRC did the right thing for themselves and their shareholders in acquiring these assets.

What I can tell you is that it is, yet again, the citizens of DRC – those whose livelihoods depend on these mines and whose barely functioning government depend on the taxes they generate who are the ones who ultimately suffer – not the shareholders of a UK-listed company.

The second case I wish to highlight is a broader one – it is the situation in Eastern Congo.

While First Quantum’s mineral was copper, Eastern Congo is the place where rare metals are found that are crucial for the electronic gadgets such as our mobile phones.

It is estimated that over 90 % of all mobile phones contain metals mined in DRC.

Perhaps it is to be expected that where these precious resources are found is also one of the world’s most dangerous places.

The mines of Eastern Congo have in the last 15 years if not for longer, been run by rebel militias and semi autonomous sections of the national army.

Both of the Presidents “Kabila” hail from this part of the country. In the 2006 Presidential Election Joseph Kabila achieved an improbable 95% of the vote in South Kivu, the populous part of the Eastern Provinces.

You would expect someone who has been returned with such a fine mandate to look after the interests of his electorate!

So, at the end of last year, in an attempt to halt the illegal proliferation of minerals from Eastern Congo the President instituted a blanket ban on all mining activity.

What all monitoring groups have said – from NGOs to private companies and commentators – is that the mining ban has not met these objectives.

It has also caused increasing poverty amongst those who are dependent on this single industry – “subsistence mining” for there is little other way to make money.

It has not led to a reduction in human rights abuses.

DRC is seeking to join the Extractive Industries’ Transparency Initiative, the coalition of companies and governments committed to transparency in extractive mineral sourcing and supply – and so they should.

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However, it is one matter to become a signatory to the Initiative, and quite another to successfully implement the terms of the agreement, an activity the EITI itself admits is the responsibility of individual countries.

Herein lies the root of the issue for DR Congo.

There is mounting evidence, reported by Global Witness, that the ban has in fact worked to increase the opaqueness of mining and extractive industries in the country, and increased the likelihood for the abuse of citizens and the misuse of the resources.

Rebel armies controlling minerals have not been removed, but brought into the national army, whose command structures so far from the capital are semi autonomous at best.

There are further concerns that the administration's attempts to assert control over rebel groups and autonomous national army groups are not just concerned with seeming to comply with extractive industry transparency initiatives, but also because of forthcoming presidential and parliamentary elections.

Since 2006 the UN has had forces in the region specifically under mandate to bring order and assist with crucial logistical and monitoring operations such as elections.

While there have been set backs for the mission, the local population and the people of DRC as a whole have supported the UN presence, as it is a force for stability and security in the face of exploitation by rebel armies and rebellious national troops.

But now, just as the benefits of the UN's presence in the east are being felt, Kabila has called for them to be removed.

Clearly there is concern inside the administration that if the UN does manage the election in the east, increasing the likelihood for a free and fair poll in the region, then President Kabila's re-election may be in jeopardy.

Therefore, the administration clearly believes, it is better to remove the UN and legitimize the dissident army factions currently in control of the region by "suing for peace" with them.

The terms of the agreement being that as newly certified official representatives of the government in the region their previously illegal mining operations and profiteering from the proceeds are now legal, government business.

And who better to oversee both the election campaign and the poll itself for you in the east than those who are your official representatives?

Making dissident government troops your official representatives does not mean the problems of illegal mining will stop.

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The DRC Government, if it is determined to assert control for all the right reasons, must:

- send fresh national army troops from elsewhere in the country
- These fresh troops must be regularly changed, including their commanders, ensuring they do not become localised and remain focused on the task in hand.
- These fresh troops need to work only in conjunction with UN forces, not in isolation of them, in order to maximise the chance of order being restored and transparency imposed.
- The DRC Government needs to work with international peacekeepers to move mining operations out of the hands of the national army – in time – and into the hands of civilians and businesses.
- Other countries need to ensure – through legal means – that their own companies do not engage in activities abroad that would not be considered. Actions such as the introduction of the Bribery Act here in the UK, similar to the USA’s Foreign Corrupt Practices Act is a good start. With this “head of steam” from major industrialised countries, I expect others to follow
- The Government must work with the international community, international businesses and its neighbours to impose a regional minerals certification process.

Being a good neighbour and carefully storing the rubbish from your home when those living next to you are still pouring theirs out into the street makes for a dirty community and unfriendly relations!

But, joking aside, it is impossible to develop a successful certification process to halt the proliferation of conflict minerals from DRC unless there is the agreement of the country’s neighbours that they will take part.

It has long been known that those countries bordering DRC, particularly those bordering the eastern Region are the transit countries for illegal minerals.

Now, to successfully transit conflict minerals, there are many people who must work together – there needs to be a transit route, there have to be buyers, there have to be traders and metal exchanges willing to handle the goods.

However, ultimately, if the immediate transit routes can be stopped or at least slowed, then much can be achieved to halt this illegal trade.

And for that to happen our neighbouring countries are key.

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The UK has enormous influence on our neighbours.

You may not know this, but Britain supplies through DFID nearly half of the Government of Rwanda's annual budget.

The British taxpayer is the largest single contributor to the smooth running of Rwanda.

Whether you consider this to be right or wrong, frankly you have a right to demand that they act to help halt this proliferation.

Now, they have introduced laws to do so, but laws are not real unless they are enforced.

It is also in the interest of the Government of DRC to see conflict mineral proliferation reduced, as legitimate trading will increase their tax take, and the funds they can use for investment in the country.

But I am not so sure it is in the immediate interests of the Administration.

It may well be in their long-term interests for the uncertificated mining to quietly continue – on the side - only now made legitimate by making dissident militias their own.

And it is also in their interests for the UN forces to be sent home.

But it is in the interests of the international community - both those who wish for transparency in extractive industries and those who believe in free and fair elections - to monitor, lobby and hold the government of DRC to account if this is allowed to happen.

Still, despite this, you may say why should this matter to me?

Well then please look at your mobile phone – all of you please – take from your pockets your phones.

Next time you look at that you can remember that the minerals of the DRC make your life easier, let you run your business more smoothly and stay in touch with your loved ones.

This is because of the DRC.

You can thank us for this by putting pressure on your own companies and the UK to play fair in DRC.

Perhaps the real answer to this matter of transparency really lies with you.

We've seen how popular movements across the Middle East calling for change can make this happen if through no reason but their own determination.

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Movements such the fairtrade movement have made real differences to the lives of millions.

Organic, local foods in your supermarkets are there because of popular, consumer demand - not government initiatives.

Good governance in the in the mining industry is good for consumers, it is good for business and it is good for people of the Democratic Republic of Congo.

So if it matters to you that the metals that power your mobile and makes your life better are not created through exploitation, rape or abuse, then you can demand companies that use such minerals stop doing so, and “popular demand” will in the end prevail.

Frederick Hayek, whose works were the cause of the foundation of this Institute, said this:

“If we wish to preserve a free society, it is essential that we recognise that the desirability of a particular object is not sufficient justification for the use of coercion”

This is the truth, God willing.

And it is why I am proud to speak to you from the platform of this great Institute today.

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