Supplementary Governance by Business for Human Rights Protection in Resource-Based Conflict
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Part I. Introduction

This paper situates good governance, as defined by the United Nations Development Program (UNDP), as critical to the fulfillment of human rights. It attempts to address the situation of weak governance found in resource-cursed States, and suggests supplementary governance by businesses operating in these States. It also elaborates a largely theoretical model of resource-centred governance with human rights as a top priority, drawing from models for governance of water. The mining industry’s recent efforts to reduce the conflict associated with production of tin, tantulum and tungsten in the Democratic Republic of the Congo (DRC) will be critically assessed in the context of these recommendations.

Part II. Good Governance for Fulfillment of Human Rights

This section first defines the concept of governance, and provides a foundation for the later argument that business should be involved in governance. This section defines “good” governance, a definition that later serves as a yardstick against which the mining industry’s efforts at governance in the DRC will be measured.

A. What is Governance?

A broad concept of governance (distinguished from government) is emerging in both the theoretical and empirical academic literature. For instance, Cortright, Seyle & Wall refer to ”effective systems of cooperation, coordination, and decision-making [as] more broadly called governance”.¹ Further specified, “governance can be defined as the system of rules

and procedures created for the purpose of solving collective problems and instilling and maintaining order”. Governance, therefore, encompasses laws, rules, policies and norms within “institutions [both formal and informal] that structure social interactions”. Although States maintain their “monopoly of the legitimate use of physical force within a given territory”, broadly understood, governance is provided not just by States but also by a wide variety of actors. Several authors point out that non-State organizations are increasingly engaged in institution building and the production of public goods.

While some scholars question any monolithic definition of good governance from a cross-cultural perspective, overall good governance fosters “collective problem-solving skills [for] a more resilient society”. Consistent with the UNDP’s understanding of the dimensions of good governance, the following table helpfully summarizes the principles of good governance:

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2 Cortright et al, supra note 1 at 8 [emphasis added].


6 Eva Poluha & Mona Rosendahl, Contesting 'Good' Governance: Crosscultural Perspectives on Representation, Accountability and Public Space (New York: Taylor & Francis, 2002).

The most common substantive difference among definitions of good governance concerns their emphasis on the existence of a relationship of democratic accountability of citizens with their government. Further, neoclassical economic perspective may put greater emphasis on particular outcomes within good governance, such as stable property rights, low transaction costs, and low expropriation risk, as well as reductions in corruption levels.  

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Several sets of indicators measure and periodically report on different aspects of good governance worldwide.\(^9\) Of course, not every State scores high on governance. However, just as good governance is not monolithic in its characteristics, neither is weak governance. Indeed, weak governance does not depend on a particular for, but can, for example, be found in factional democracies like Iraq, or in highly commodity-dependent economies like the DRC.

B. Good Governance & the Respect, Protection and Fulfillment of Human Rights

This section links the aspects of good governance, like equity and transparency, with fulfillment of human rights, albeit with a disclaimer about the use of indicators to make this claim.

Disclaimer about Indicators

Originally, a very limited set of empirical measures of governance were available, yet interest has grown in the development of policy-relevant sets of indicators of good governance and human rights fulfillment, comparable across countries and over time.\(^{10}\) As Sally Engle Merry describes:

Statistics on income, health, education, and torture, for example, are useful to assess compliance with human rights norms and progress in improving human rights conditions. The use of these statistics and indicators derived from them by the committees charged with monitoring compliance with the major human rights conventions has increased over the past two decades.\(^{11}\)

There is growing interest in indicators as a basis for policy decisions, “such as where

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\(^{11}\) Sally Engle Merry, "Measuring the World: Indicators, Human Rights, and Global Governance" (2011) 52:53 Current Anthropology 583 at 584.
to send foreign aid, where to focus on human rights violators, and which countries offer the best conditions for business development”. However, caution is advised, as the seemingly objective nature of measures such as rankings and scores often mask a degree of imprecision and inherent incomparability between countries.

**Correlation of Good Governance with Positive Human Rights Outcomes**

First, it seems unlikely that citizens could effectively realize their human rights without strong institutions and rule of law. For example, corruption clearly compromises the government’s ability to deliver public goods and services, including health, educational and other social services, which are essential for the realization of economic, social and cultural rights. Corruption increases discrimination in distribution of public goods and services. Disadvantaged people often suffer disproportionately from this particular effect of corruption.

By contrast, there is now a growing and empirical consensus among both academics and policymakers that good governance provides the foundation for economic development. As Kaufmann explains, countries can derive a very large “development dividend” from good governance. However, development indicators and human rights indicators are not precisely overlapped. As Katarina Tomasevski, explains, “[e]conomic and social policies which intergovernmental development finance agencies and individual governments are pursuing in practice do not necessarily match corresponding human rights, that is, a national policy on education may not include the contents of the human right to

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12 *Ibid* at S85.


Further, development indicators use aggregate scores, while individuals hold human rights. Nevertheless, strong institutions and the rule of law also promote human rights fulfillment, and success against such measures as the UNDP’s Human Development Indicators. As an example, a commitment to rule of law ensures an impartial justice system is available for the grievance of right-based complaints.

Despite limitations due to the reliance on indicators, and despite an imprecise overlap between human rights fulfillment and measurable development outcomes, the assumption of this paper will be that good governance leads to better human rights fulfillment.

**Part III. Current Reality: Global Demand for Resources Increasing the Resource Curse in the Global South**

This section introduces the concept of the resource curse and its negative impact on human rights fulfillment. It argues that situations involving the resource curse can be expected to increase in the global south. Therefore, supplementary models of governance are urgently needed to address situations in which States fail to fulfill their human rights obligations.

**A. Global Context : Heightened Need for Good Governance given Increased Competition for Limited Resources**

In a world of finite non-renewable resources, such as fossil fuels and mineral resources, any increase in demand for these resources (to meet basic human needs, as well as, meet

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15 As quoted in Green, supra note 10 at 1090.

16 Ibid.

lifestyle choices) will also increase competition in the absence of rational allocation. We now
live in a world of declining availability of resources per person. Especially as technological or
other limits are reached in the exploitation of non-renewable resources, bidding wars and
more overt conflict can be predicted to arise over the distribution of declining resources. A
tense dynamic can also be observed with certain renewable resources—those resources that
are subject to levels of demand greater than would sustain their ongoing renewal. In these
circumstances, renewable resources may similarly produce conflict and power struggles in
the same way.

Between countries, the race to secure resources may be accelerated by the exercise of
economic power, military power or other combinations of power. Overall, it can be expected
that the resource curse and associated effects will begin to affect more countries unless
mitigating strategies are found.

B. The Resource Curse and its Empirically-Linked Impacts

The resource curse is a hypothesis, first formulated in the 1990s, that countries in the
global south rich in various types of non-renewable resources tend to exhibit lower rates of
economic growth relative to their less resource-rich “peers” over the same time period.\(^{18}\) For
example, “states with higher levels of oil and minerals dependence, such as Gabon, Oman,
Algeria, and Papua New Guinea, tend to be less effective; [whereas] governments with lower
levels of oil and minerals dependence, such as Sri Lanka, Madagascar, and Tanzania, tend to
be more effective”.\(^{19}\)

Why would this be, given that intuition would suggest that a country’s overall GDP
would increase with the exploitation of its valuable natural resources? Alongside various


\(^{19}\) Michael Ross, *Extractive Sectors and the Poor* (Boston, MA: Oxfam America, 2001) at 14.
macro-economic reasons, scholars have suggested that resource-rich countries tend to display weak governance, as discussed above, with ineffectual or corrupt institutions often mismanaging any increase in the country’s resource wealth. In ineffectual institutions may result if the government declines to tax its citizens, relying instead on funds it receives through concessions for natural resources. This choice means, however, that citizens miss out on a relationship of accountability with their government and their government is less responsive to their needs and interests. Indeed, as taxation is the “key means to promote accountability”, resource-rich leaders often remain unaccountable to citizens. Corrupt institutions emerge as leaders gain direct access to revenues from resources, and proceed to distribute revenues to an elite group of constituents in order to maintain their authority.

Resource Curse Impact on Peace and Conflict

The concept of the resource curse has been rapidly expanded in academic and policy discourses. It is now also correlated with poorer development outcomes (such as lower


24 See e.g. Thorvaldur Gylfason, “Natural Resources, Education, and Economic Development” (2001) 45 European Economic Review 847 (which shows that public expenditure on education relative to national income, expected years of schooling for girls, and gross secondary-school enrolment are all shown to be inversely related to the share of natural capital in national wealth across countries).
scores on the UN’s Human Development Index\textsuperscript{25} and greater susceptibility to civil conflict\textsuperscript{26} and/or attempted coups,\textsuperscript{27} as different domestic groups fight for their share of the wealth. The following table from 2001 provides examples of oil and mineral dependent states experiencing civil war.

\begin{table}[h]
\centering
\begin{tabular}{|l|l|l|}
\hline
Country & Duration & Resources \\
\hline
Algeria & 1991-present & Oil \\
Angola (UNITA) & 1975-present & Diamonds \\
Angola (Cabinda) & 1992-present & Oil \\
Congo, Republic & 1997-1999 & Oil \\
Congo, Democratic Republic & 1997-present & Copper, diamond \\
Indonesia (Aceh) & 1986-present & Natural gas \\
Indonesia (Irian Jaya) & 1969-present & Copper, gold \\
Iraq & 1974-75, 1985-92 & Oil \\
Liberia & 1989-95 & Diamonds, iron c \\
Papua New Guinea & 1988-present & Copper, gold \\
Sierra Leone & 1991-present & Diamonds \\
Sudan & 1983-present & Oil \\
Yemen & 1986-87, 1990-94 & Oil \\
\hline
\end{tabular}
\caption{Recent Civil Wars in Oil and Mineral Dependent States}
\end{table}

From: Michael Ross, \textit{Extractive Sectors and the Poor} (Boston, MA: Oxfam America, 2001) at 15.

\textbf{Resource Curse Impact on Human Rights Fulfillment}

Several authors have demonstrated that a country’s oil wealth and rising oil prices globally may have a detrimental effect on civil and political rights.\textsuperscript{28} For example, Clement Nwankwo, a prominent Nigerian human rights campaigner, was quoted in 2006 claiming that since the price of oil had started to climb in Nigeria, “civil liberties [have been] on a huge

\begin{itemize}
\end{itemize}
decline—people have been arbitrarily arrested […] institutions of democracy have been crippled.”

Numerous authors have shown that outcomes in economic and social rights are worsened by a country's fossil fuel or mineral wealth, as high defence or security sector expenditures tend to crowd out expenditures in health, education and basic infrastructure.

As discussed above, when the State’s revenues are not linked to the population through a relationship of accountability, leaders experience a diminished obligation to deliver essential services and make long-term investments in the public interest. Further, there may also be a negative human rights impact if people are displaced from their land and homes to make room for large-scale development of new resources.

Overall, the effects of resource development often fail to remove the main sources of “unfreedom” identified by Amartya Sen, that is, poverty, tyranny, poor economic opportunities, neglect of public facilities and repressive governments, and often also exacerbate the challenges citizens face in meeting their basic human needs.

Further, the resource curse may create conditions for grave violations of human rights and mass atrocities. For instance, Esteban, Morelli & Rohner argue based on empirical evidence that “mass killings are most likely in countries with large amounts of natural resources, institutional constraints regarding rent sharing, and low productivity of labor in other sectors”. In other words, they found that the higher the natural resource rents as a

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29 Ibid at 34.


proportion of GDP, the higher the incidence of mass killings. The authors explain this in strategic terms concerning control over future distribution of surplus from natural resource development.

**Resource Curse Impact on Foreign Direct Investment (FDI) and Multilateral Lending**

Finally, an exacerbating impact of the resource curse is the general reluctance of foreign capital investors to take a risk on States perceived as politically risky. Weak governance, corruption and increased likelihood of internal conflict often lead corporations and multilateral lenders to balk at investments and potential job-creating projects in resource-cursed States. Corporations and lenders are concerned about their reputations, liability exposure and operational risks in high-risk areas, which would include breaches of contract, transfer and convertibility restrictions, non-honoring of government guarantees, and the expropriation or nationalization of assets. Further, political risk insurance is often a requirement of international finance agreements, yet is often unavailable for projects in the most volatile of resource-cursed States.

The impact of this lost opportunity for business investment likely represents not just the loss of jobs and skills development, but also the loss of diversification opportunities for

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the economy. It is also a loss of peace-building influence. Post-conflict, it has been shown anecdotally that corporate investment and activities may deliver a “peace dividend” or “injection of optimism and hope born of employment and economic opportunity”, which may persuade citizens to stay out of renewed conflict. As a specific example, business may offer jobs and training to people who would otherwise re-enroll in military or rebel forces.

Overall, therefore, weak governance and corrupt institutions, as associated with the resource curse, create the conditions for lower rates of economic growth and development, loss of foreign investment and job-creating projects, and increased risk of civil conflict. As a result of the resource curse, governments often lack a relationship of accountability with their citizens, and neglect health, education and infrastructure investments. Alongside greater difficulty citizens have in exercising their human rights and meeting basic human needs, the situation also creates risk of grave violations of human rights.

Part IV. Proposed Strategy: Reduce Impacts of Resource Curse Through Supplementary Governance

In the context of the spreading resource curse, this section identifies the governance gap in resource-cursed States, and proposes two strategies for supplementary governance. The first strategy is encouraging business as a corporate citizen, providing supplementary governance in resource-cursed States. A case study of the mining industry in the DRC will be examined from this perspective. The second strategy is conceiving of supplementary governance as clustered around specific resources. Lessons from water governance will be examined from this theoretical perspective.

A. Gap Analysis: Specifying the Governance Quotient

As discussed above, and demonstrated by the simplified table below, a significant governance gap exists in resource-cursed States. Many proposals have been advanced to fill this gap, including changes to constitutions, laws, institutions, policies, norms, as well as other supplementary programs and mechanisms in resource-cursed States. The most popular solutions emphasize the diversification of the State’s economy, new mechanisms for transparency and accountability, and direct distribution of rents from natural resources to the general population. However, as emphasized by Weinthal & Luong, “[t]he success of these solutions has been limited because they […] presuppose strong state institutions, which are widely absent [in the context of the resource curse].” Thus, a supplementary approach to governance, which does not rely on strong States, may be required. This option will be discussed in the next Part.

<table>
<thead>
<tr>
<th>Resource-Cursed Governance</th>
<th>Gap</th>
<th>Good Governance</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Corrupt institutions</td>
<td></td>
<td>Participation</td>
</tr>
<tr>
<td>• Patterns of authoritarianism</td>
<td></td>
<td>• Legitimate institutions</td>
</tr>
<tr>
<td>• Favoritism weakens values of freedom of association and freedom of speech</td>
<td></td>
<td>• Freedom of association and speech</td>
</tr>
<tr>
<td>• Cynical view lessens rates of participation</td>
<td></td>
<td>• Capacity of civil society to participate constructively</td>
</tr>
<tr>
<td>• Apathy in citizenship</td>
<td></td>
<td>• Resilient society</td>
</tr>
</tbody>
</table>


44 See e.g. Martin E Sandbu, “Natural Wealth Accounts: A Proposal for Alleviating the Natural Resource Curse” (2006) 34:7 World Development 1153 (which proposes that “natural wealth accounts” be set up for every citizen, into which all of a country’s revenues from natural resource extraction are distributed on a per capita basis at regular intervals).

45 Weinthal & Luong, supra note 40 at 35.
| Consensus orientation | • Mediating difference  
|• Solving collective problems |
|---|---|
| • Government has no strategic vision, given narrow view of ongoing resource revenue  
|• No connection with the complexities of governance in domestic context |
| • Government is responsive to the interests of a limited group of elite constituents that are key to maintaining their authority |
| • Lower rates of economic growth  
|• Lower rates of development  
|• Inadequate health, education and infrastructure investments  
|• Greater risk of grave violations of human rights |
| • No relationship of accountability with citizens |
| • Corruption fosters culture of secrecy |
| • Institutions do not support equity |
| • Corruption extends to judicial systems  
|• Little to no redress for human rights violations |
| • Corruption encourages practices of expropriation  
|• Bribes and other forms of corrupt business practice increase transaction costs  
|• Loss of foreign investment and job-creating projects |
| • Increased risk of civil conflict.  
|• Greater risk of grave violations of human rights |
| Strategic vision | • Long-term future  
|• Understanding of complexities  
|• Embedded leaders |
| Responsive | • Serving all stakeholders |
| Effective and efficient | • Making best use of resources  
|• Meeting needs.  
|• Managing systems of cooperation, coordination, and decision-making  
|• Solving collective problems |
| Accountable | • To citizens  
|• To institutional stakeholders |
| Transparent | • Information allows engagement & monitoring |
| Equity | • Between men and women  
|• Between different groups in society |
| Rule of law | • Impartial justice system  
|• Fair justice system  
|• Human rights law is fairly applied |
| Open for business | • Stable property rights  
|• Low transaction costs  
|• Low expropriation risk  
|• Reductions in corruption levels |
| Peace and order | • Instilling and maintaining order  
|• Absence of civil conflict |
B. The Role of Business in Governance & Protection of Human Rights

As governance was widely framed in the first Part, it is reasonable to imagine that non-State actors can provide supplementary governance in regions experiencing the resource curse. These actors may include businesses, NGOs, civil society movements and organizations, rebel groups, multilateral organizations, public-private organizations, and local governments. These actors may set up structures that are inclusive, transparent, deliberative, and participatory, fulfilling on the principles of good governance listed above. One of these actors, business, will be discussed in detail below.

The first section will explore why businesses may be motivated to assume the role of providing supplementary governance. In this context, the business case, CSR as a response to domestic pressure from stakeholders, and the widening legal liability of corporations will be discussed. The second section will explore the benefits of involving business in governance. The last section will discuss the extent to which business is currently involved in governance.

Why Should Business Care about Governance?

The Business Case

In the international business community, there is an appreciation that both formal and informal institutions shape commercial success in “emerging” economies. Multinational corporations, in particular, can be large enough within a domestic economy to influence the terms under which they operate. In the context of the resource curse, they engage with governments and issues of governance to protect their contracts, social licenses to operate.

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46 Collectively, these institutions are known as the “Rules of the Game” (Douglass North, *Institutions, Institutional Change, and Economic Performance* (Cambridge, MA: Harvard University Press, 1990)).
and profits. Business typically prefers to avoid the conflict associated with resources for a variety of strategic reasons. In general also, corporations voice a preference for economies with strong institutions and low levels of corruption and take action to create such an operating environment. Given a clear trend, for example, toward the mandatory disclosure of payments by extractive sector companies worldwide, a competitive firm has little to gain from secrecy but “benefit[s] from the level playing field created by high levels of transparency”.

The Ethical Argument

In the CSR statements of multinational corporations the emphasized messages are primarily “minimize harm” and “reduce impacts”. The equivalent of this ethical commitment in the practice of medicine is non-maleficence, that is, “do no harm”. Indeed, corporations are commonly thought to have negative duties with respect to human rights, that is, to refrain from acting in ways that may harm individual’s human rights.

Yet, in medicine, there is also another recognized ethical principle: beneficence, or acting in the best interest of the patient. This means, more broadly, considering and advancing the well being of others. Some scholars have suggested that a duty of beneficence applies to business, and has an “important relationship with what management


48 Including operating concerns such as additional costs (e.g. energy, material and insurance), opportunity costs (e.g. business interruption and delays), potential losses (e.g. damage to infrastructure or company assets, loss of employees, local suppliers, or impacts of possible economic sanctions), and strategic issues such as reputation, investor confidence and financial liquidity.


scholars refer to as the social responsibilities of business".\textsuperscript{54} This correlates well with a positive duty with regards to human rights. The "Protect-Respect-Remedy" principles contained in the \textit{Ruggie Report},\textsuperscript{55} which now enjoy consensus among corporate leaders within the Global Compact and the Human Rights Council of the United Nations, reflect this positive duty. These principles include, for instance, the positive duty of corporations to provide effective remedy to restore those victims who have suffered human rights abuses in relation to the corporation’s activities.

In the context of the resource curse, businesses that benefit from resource extraction are, in some cases, helping to create the conditions of weak governance and its empirically-linked harms.\textsuperscript{56} This is contrary, first, to their stated ethical duty of “doing no harm”. And, according to the \textit{Ruggie Report}, corporations have the responsibility to remedy any harms, as above. Further, some scholars would push corporations’ positive duties further, and argue that where governments fail to discharge their obligations, “for corporations, the direct implementation of duties normally shouldered by states could be called for”.\textsuperscript{57} Therefore, corporations are at least co-responsible with States for upholding the protection, promotion and fulfillment of human rights.

\textbf{Pressure on Domestic Level}

For the full spectrum of human rights, States have the basic obligation to regulate the actions of corporations headquartered in their territory. Due diligence implies that where a


\textsuperscript{56} Kolstad, supra note 53 (some corporations may work to “undermine the ability of a domestic government to address its [human rights-protecting] functions” at 573).

\textsuperscript{57} \textit{Ibid} at 579.
State believes that a company with headquarters in their territory is involved in violations of international law abroad, it has a duty to take measures to prevent or stop this from happening. Further, States are obligated to review whether domestic policies, legislation, regulations and enforcement measures effectively encourage corporations to exercise their own due diligence concerning possible human violations.58 A State’s failure to seriously investigate the human rights violations committed by a private party has been seen by international courts as complicity in the commission of human rights violations.59 On a more formal basis, the Convention Against Torture60 and the Convention on the Elimination of All Forms of Discrimination Against Women,61 among other conventions, contain explicit provisions obligating state parties to take measures against private parties whose activities could threaten the rights the conventions seek to guarantee. Some scholars observe that successful claims for violations of human rights against States may occasionally also bring significant domestic pressure to bear the corporations involved.62

Legal Liability of Corporations

As above, while the “primary responsibility for the protection of its people lies with the state itself, [if] the state in question is unwilling or unable to halt or avert [serious harm], the principle of non-intervention yields to the international responsibility to protect”. 63

58 Ruggie Report, supra note 55.


60 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 10 December 1984, 1465 UNTS 85 (entered into force 26 June 1987).


63 International Commission on Intervention and State Sovereignty, The Responsibility to Protect (Ottawa: International Development Research Centre, 2001) at XI.
Indeed, the core principles of the RtoP doctrine acknowledge the possibility of residual responsibility in the absence of State capacity or willingness to act. Thus, the human right to protection from grave violations may compel the obligations of non-State actors, and suggests the concept of joint and several liability. In RtoP-related discourse at the level of the United Nations, there has been movement to define corporations’ basic obligations more clearly, at least with respect to the gravest of human rights violations or the crimes prohibited under the Rome Statute. This increased definition of corporate obligations may be the thin edge of the wedge in terms of corporate responsibility for a wide range of human rights.

Criminal liability is available for corporate officers and managers who act in complicity with grave violations of human rights (the “ICC crimes”) under the Rome Statute. Many signatory nations to the Rome Statute have also allowed for corporate criminal liability, at least for the ICC crimes, on the domestic level. Criminal prosecutions of corporate leaders have proceeded in the Netherlands, the United States, France and Germany for the

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64 Ibid.
67 Rome Statute, supra note 65 (“the Court shall have jurisdiction over natural persons pursuant to this Statute” at art 25) [emphasis added].
ICC crimes. Corporate complicity in aiding or abetting the ICC crimes,\textsuperscript{73} as opposed to direct participation, is the most prevalent claim made against corporations.

Also, plaintiffs are increasingly framing corporations’ complicity in the ICC crimes as civil wrongs in the corporation’s “home state”, invoking international criminal prohibitions to give content to civil standards for corporate conduct.\textsuperscript{74} Notably, multinational corporations have been sued under the \textit{Alien Tort Claims Act} in the United States,\textsuperscript{75} \textit{Regulation n° 44/2001} in the European Union,\textsuperscript{76} and perhaps soon under the newly enacted \textit{Justice for Victims of Terrorism Act}\textsuperscript{77} in Canada. Home state regulation, such as anti-laundering regulation, visa bans and other sanctions, as well as shareholder transparency regulations,\textsuperscript{78} may play a role to enforce respect for human rights by corporations in resource-cursed States.

\textbf{What is the Benefit of Businesses being Involved in Governance ?}

The presence of business has been recognized as an important mitigating factor to armed conflict and commission of the ICC crimes, as discussed above.\textsuperscript{79} Also, many corporations have the financial and organizational capacity to perform some of the tasks of governance traditionally attributed to governments. Business is seen as a beneficial presence

\begin{itemize}
\item \textsuperscript{73} Special Representative to the UN Secretary-General, \textit{Report of the Special Representative of the Secretary-General on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises}, UN Doc A/HRC/8/5 (7 April 2008) (corporate responsibility to respect human rights includes avoiding complicity, which has been most clearly elucidated “in the area of aiding and abetting international crimes, \textit{i.e.} knowingly providing practical assistance or encouragement that has a substantial effect on the commission of a crime...” at paras 73-74).
\item \textsuperscript{74} See e.g., \textit{Bil'in (Village Council) v Green Park International}, 2009 QCCS 4151.
\item \textsuperscript{75} 28 USC § 1350 (2006).
\item \textsuperscript{77} \textit{Justice for Victims of Terrorism Act}, SC 2012, c 1, s 2.
\item \textsuperscript{78} See e.g. the Swedish Stock Exchange’s investigation into Lundin Petroleum’s alleged secrecy vis-à-vis its shareholders and the market about its activities and the situation in “Block 5A” in Sudan during the period of 1997-2003, online: GP <http://www.gp.se/kulturojje/1.1653055-gabriel-bystrom-lundin-och-bildt-allmer-pressade>.
\item \textsuperscript{79} Seyle, \textit{infra} note 119.
\end{itemize}
in the global south by some scholars, suggesting that the contribution of “corporate responsibility is most pressing [in Africa, Central/Eastern Europe, Central/South Asia, Latin America, and the Middle East] due to greater poverty, environmental degradation, and institutional governance issues [in those regions].” Further, corporations may exert disproportionate influence on weak governments in countries that experience the resource curse and large multinational corporations in the global south are particularly influential.

**What is Business Doing about Governance?**

Academic literature points out the contributions of corporate social responsibility (CSR) commitments in addressing the governance gap. Indeed, the business community is increasingly aware of its wider social responsibilities and uses the concept of corporate social responsibility to initiate broader private sector involvement in poverty alleviation and other issues of governance.

Self-regulation may have an influence on corporate behavior in resource-cursed States. With respect to human rights, the OECD Guidelines for Multinational Enterprises provide voluntary principles and standards for corporate conduct in such areas as human rights, corruption and environment. They require that enterprises respect the internationally-recognized human rights of those affected by their activities, and carry out due diligence as appropriate to their size, the nature and context of operations and the severity of the risks of

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adverse human rights impacts. While the OECD regime is not without its critics, NGOs and trade unions have used the public compliant procedure available under the Guidelines to address human rights abuses by corporations, and have been successful in modifying corporate behavior through this mechanism.

**What could Business be Doing about Governance?**

Scholars suggest business might play a major role in establishing or strengthening institutions in countries where they operate. This is referred to by some scholars as “ordo-responsibility”, demonstrated by corporate participation in “processes of political rule-setting and public rule-[deliberation], [for the purpose of] improving the (deficient) political rules of the game of the economy”. Specific to human rights, scholars have conceptualized corporate citizenship as the administration of individual citizenship rights, including their social, civil, and political rights, as traditionally fulfilled and protected by governments. Corporate citizens, therefore, may play an enabling and channeling role for civil and political rights, as well as a providing role for social and economic rights. Building on this concept, Baumann-Pauly & Scherer’s spectrum of corporate citizenship will be explored in more detail below.

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83 Ibid at ch IV.


85 See e.g. “Parties reach agreement in OECD Guidelines case regarding Nidera’s human rights policies and practices in Argentina” online: OECDWatch <http://oecdwatch.org/news-en> (for an OECD Guidelines case in which the NGOs CEDHA, INCASUR, Oxfam Novib and SOMO reached an agreement with the Netherlands-based agricultural multi-national enterprise Nidera regarding the company’s human rights policies and practices. As part of the agreement, Nidera strengthened its human rights policy, formalized human rights due diligence procedures for temporary rural workers, and also allowed the NGOs to monitor its Argentine corn seed operations through field visits).


However, case studies indicate that all businesses do not make the choice to improve governance, and especially if the “improvement” is not to their benefit.\textsuperscript{90} For example, one case study of oil companies in Angola suggests that, “[i]f institutional reform shifts resource rents from oil companies to host country populations, institutional improvement may not be in the interest of corporations, individually or collectively […] [t]he failure to address governance problems may thus reflect collective complacency of corporations rather than collective action problems”.\textsuperscript{91} Other cases studies have unfortunately confirmed complacent corporate postures.

\textit{How could Business Learn about Governance?}

There may be lessons to be learned for international businesses operating in the context of the resource curse from management of natural resources less linked to the marketplace, such as water, as discussed briefly below. Here, a valuable distinction between resources and commodities can be drawn. Commodities are marketable items or volumes used to satisfy wants or needs and sold as an economic good. Importantly, it is commodities that form the context for the “resource curse”, despite its name. By contrast, resources are beneficial items or volumes drawn from the natural environment used to satisfy wants or needs, without necessarily linking with an economic life cycle.

\textbf{Water Governance}

Water is a good that, in certain contexts, functions as a resource, and in other contexts, a commodity. As global pressure on water supplies increases, largely due to the combined effects of agricultural and industrial developments, energy projects, consumption


\textsuperscript{91} Arne Wiig & Ivar Kolstad, “Multinational corporations and host country institutions: A case study of CSR activities in Angola” (2010) 19:2 International Business Review 178 at 179.
habits, population growth and climate change, water can be expected to be bought and sold as a commodity more often. The impact of such commodification, especially in the global south, is that “part of the population [could] be technically deprived of access to a resource that is essential to human survival”. Though water is not currently a commodity, it faces increased global demand pushing it in that direction, perhaps leading to a situation in which water-rich nations will face versions of the resource curse.

Thus, human rights considerations necessarily play a significant role in water management. In 2010, resolutions by the United Nations General Assembly and the Human Rights Council (HRC) confirmed that access to safe water and sanitation is a human right. The HRC resolution states, “the human right to safe drinking water and sanitation is derived from the right to an adequate standard of living and inextricably related to the right to the highest attainable standard of physical and mental health, as well as the right to life and human dignity”. This recognition uniquely provides for a civil society debate regarding the “equitable distribution of social and economic benefits derived from water through agriculture, energy, health and other productive activities”.

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94 For a paper linking water scarcity with the resource curse, see Annabel van Gelder, “Using Water Wars Theory and Resource Curse Theory to Discover if Water Scarcity Played a Role in Causing the Darfur Conflict and the Environmental Conflicts in China” (2012), online: <https://openaccess.leidenuniv.nl/handle/1887/19454>.


97 Ibid at 2. Similarly, the right to food has also been recognized, see UN Committee on Economic, Social and Cultural Rights, General Comment No 12, Right to Adequate Food, UN Doc E/C.12/1999/5 (1999), online: <http://www1.umn.edu/humanrts/gencomm/escgencom12.htm>.

98 Water Report, supra note 92 at 35.
Given this explicit role for human rights, water is often managed entirely by government or through partnerships between business and government. Indeed, “governance requires cooperation and coordination across diverse stakeholders and sectoral ‘jurisdictions’”. This means getting national and local governments, civil society organizations, private sector, academia and practitioners to the same table. One model of water governance, for example, called total water management, requires the participation of all units of government and stakeholders in decision-making through a process of coordination and conflict-resolution. Decision-making takes into consideration all competing uses of water through efficient allocation that addresses social values, cost-effectiveness, and environmental benefits and costs. Beyond total water management, there are many models of collaborative authority in the management of various watersheds and water sources worldwide, ranging from the transnational to the local. In all of these contexts, private sector can be expected to develop a robust understanding of resource governance.

Water governance is assumed to draw a meaningful parallel with governance of other resources and commodities, because of its dual nature as both resource and commodity, and its clear relationship with human rights fulfillment. Thus, there are lessons from water governance for business and governance in the context of the resource curse. Although this is a large area of future research, a few initial observations can be drawn. As a model, total water management performs well on the “participation” & “responsiveness” aspects of good governance, as identified by the UNDP. It brings all stakeholders, including national and local governments, civil society organizations, private sector, academia and practitioners

99 Ibid at 2.
101 Ibid.
102 See e.g. the Nile Basin Initiative on a transnational scale, online: <http://www.nilebasin.org/newsite/index.php?option=com_content&view=section&layout=blog&id=5&Itemid=68&lang=en>; the “Law of the River” for the Colorado River on multi-state and transnational levels, online: <http://www.usbr.gov/lc/region/g1000/lawofrvr.html>; and various Riverkeeper organizations on a local level, e.g. Ottawa Riverkeeper, online <http://ottawariverkeeper.ca>.
to the same table. Multi-stakeholder governance is well suited to the increasingly rapid changes in our societies, economies, climate and technologies, as it continuously incorporates all perspectives. It exhibits many aspects of the UNDP’s good governance within its particular domain.\textsuperscript{103} It encourages the private sector participants to develop a robust understanding of the concerns of governance, and be more responsive to the equitable apportionment of benefits, or the “equity” aspect of good governance.\textsuperscript{104} Overall, therefore, it is a good model for resource-centred governance by business. Resource-centred businesses taking on the role of corporate \textit{citizenship} in resource-cursed States could analogize from the model of water governance to better understand the full spectrum of their role.

\textbf{C. Case Study: Mining Industry Associations in the Democratic Republic of the Congo}

This section applies the theoretical framework constructed above to one particular case study. This case study was chosen because I personally had an opportunity to visit Goma in the DRC in 2010. As I stepped across the border from the lushly-landscaped Gisenyi, Rwanda to Goma in the DRC, the relative impoverishment of the people was apparent. From the kids who aggressively fought each other for the gifts I had brought, to the people who scoured the lava fields for items of value. This poverty, the constant noise of commercial charters overhead taking off from Goma’s airport, and the overwhelmingly enormous UN installment, combined to produce a dissonant effect. What is going on in Goma? How can a student of human rights make sense of that situation? I’m still peeling layers of the onion.

\textsuperscript{103} \textit{Water Report}, supra note 92.

\textsuperscript{104} However, this is not a universal result. For example, Ghana’s Commission for Human Rights and Administrative Justice reported in 2008 that 82 rivers and streams in five mining communities in Ghana had either been polluted, destroyed, diverted or dried-up as a result of mining companies’ activities (online: <http://www.ghanaweb.com/GhanaHomePage/NewsArchive/artikel.php?id=216482>).
The DRC is one of the most mineral rich countries in the world, and has a significant store of gold, tin, tantalum and tungsten. Mining interests in the DRC represent a complex picture, illustrated along the value chain of a single mine below:

There is a history of conflict in Goma and the eastern DRC that involves the minerals trade in the region. The description below focuses on strategies undertaken by business associations in the DRC, aimed at reducing conflict associated with the minerals trade in the DRC. The US has adopted strong legislation to underline a commitment to conflict-free minerals, and the EU may soon follow suit. “Conflict-free” minerals in the DRC was chosen as a case study, partly for the personal reasons described above, and partly because it is a well-documented example of an entire industry coming to terms with its governance responsibilities after years of significant and tragic failures. The nature of the initiative as industry-wide may add to its potential as a supplementary form of governance in the eastern DRC. Corporations most successful in adopting CSR strategies have often sought out cross-sector associations, creating what one author describes as a “new ‘collaboration zone’”.

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106 Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub L 111-203, 124 Stat 1376, ss 1502, 1504.

107 Online: <http://www.ihrb.org/commentary/board/eu-key-to-further-progress-on-conflict-minerals.html>.

Within this collaboration zone, some corporations have been combining their efforts to make joint policy contributions to governance. Overall, the phenomenon of collective action in the DRC may be reflective of an intention to “get the system in the room” and thereby find ways to take effective collective action together.\(^\text{109}\)

**Electronics & Cell Phone Manufacturers**

Electronic Industry Citizenship Coalition (EICC) is a coalition of electronic manufacturers, software firms, ICT firms, and manufacturing service providers involved in the design, market, manufacture and/or provide electronic goods or other materials or services to ICT firms. It was established in 2004 to improve social, economic, and environmental conditions in the global electronic supply chain through use of a standardized code of conduct. The EICC provides a code of conduct for its members, including the requirement that members “have a policy to reasonably assure that the tantalum, tin, tungsten and gold in the products they manufacture does not directly or indirectly finance or benefit armed groups that are perpetrators of serious human rights abuses in the Democratic Republic of the Congo or an adjoining country”.\(^\text{110}\)

Fairphone is a cell phone company. It has partnered with the Conflict-Free Tin Initiative and Solutions for Hope, as discussed below, to source conflict-free tin as soldering paste and conflict-free tantalum for use in cell phone capacitors. Fairphone’s goal is “sourcing raw materials that don’t fund armed forces or violent conflicts, from mines that treat people like the human beings they are”.\(^\text{111}\) In the first round of sales, Fairphone sold 10,000 cell phones in Europe, with pre-orders for 25,000 in 2013.


Smelters

EICC’s Conflict-Free Smelter Program offers companies and their suppliers independent, third-party audit tools with a compliance protocol capable of determining which smelters and refiners can be validated as “conflict-free” in line with current best practices. Under the Conflict-Free Smelter Program, the EICC, along with its partner the Global e-Sustainability Initiative (GeSI), publish lists of smelters, by metal, compliant with the conflict-free smelter protocol. The lists are updated quarterly, or more frequently as appropriate. By approaching the problem as an entire electronics industry, the industry was able to develop a robust template for data collection and collective auditing of smelters. It is unlikely that one or two businesses would have had the means to undertake numerous audits of smelters on their own, nor a comprehensive data collection system. Further, it is unlikely that smelters would have had the capacity to comply with various differently formatted requests from different companies.

Local Extraction & Production in the DRC

The Conflict-Free Tin Initiative includes industry partners, such as Royal Philips, Tata Steel, Motorola Solutions, BlackBerry, Alpha, AIM Metals & Alloys, Malaysia Smelting Corporation Berhad (MSC), Traxys and an industry association for the tin industry called ITRI. These actors were convened by the Dutch government in 2012 to create a Conflict-Free Tin Initiative in the province of South Kivu. The program was intended to demonstrate how the OECD Due Diligence Guidelines for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas[^113] could be implemented to source tin responsibly from the Kivu region of the DRC. As of March 2013, the project had successfully produced 200 tonnes of conflict-free material available for end users[^114].


[^114]: CFTI, online: <http://solutions-network.org/site-cfti>. 
Solutions for Hope was launched by Motorola as a pilot initiative to source conflict-free tantalum from the northern Katanga province in the DRC. Solutions for Hope’s unique approach to mineral sourcing in the region utilizes a closed-pipe supply line and a defined set of key suppliers – mines, including artisanal cooperatives, smelter/processor, component manufacturer and end users. The initial key partners in the project, including Motorola, HP, Intel, Nokia, and Foxconn, were able to verify the steps of the chain of custody and follow the supply chain route to ensure conflict-free sourced tantalum. Along the way, an independent audit of mining operations was conducted to evaluate compliance with the OECD Due Diligence Guidelines. The Guangdong smelter involved in the process is also compliant with EICC’s Conflict-Free Smelter program, described above, and has successfully undergone an annual re-audit. Interestingly, the smelter has the ability to semi-batch treat materials so that materials can be tracked separately through the smelting process.

Related Initiatives

The Extractive Industries Transparency Initiative (EITI++) is a voluntary revenue transparency standard for corporations and governments in countries with significant extractives industries. This standard allows scrutiny of payments made by extractives companies, including to security forces and/or rebels groups and government officials in regions of conflict.

The Public-Private Alliance for Responsible Minerals Trade (PPA) is a joint effort of the US State Department, the US Agency for International Development, the International Conference on the Great Lakes Region (ICGLR), several non-governmental organizations, including the Enough Project, Jewish World Watch, Pact, Partnership Africa Canada, RESOLVE and the Responsible Sourcing Network, ICT companies, and industry

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116 Ibid.

117 EITI, online: <http://eiti.org/eiti>.
organizations, including the EICC, GeSI, ITRI’s Tin Supply Chain Initiative (iTSCI) and the World Gold Council, to create a hub for those seeking information and taking action to create a responsible minerals trade in the DRC and the Great Lakes Region of Central Africa. The PPA supports pilot projects. Its first pilot project aims to create a traceable conflict-free mineral chain for artisanal gold from the eastern DRC. The PPA also provides a platform for coordinated, productive dialogue among government, industry, and civil society in a non-regulatory setting. Further, it allows government, companies, and civil society to harmonize technical and financial resources for a common purpose, and raise new funds collectively.  

An Industry-Wide Collaboration

Given the complexity of addressing conflict minerals management in the DRC, businesses appear to have joined together to accomplish the task. This is well illustrated by the initiatives described above. Now that they have approached working together, if mining companies are increasingly motivated to be involved in contributing to effective governance and institutions, as specified in the International Council on Mining & Metals’ recommendations below, they may be better able to do so collectively.

118 PPA, online: <http://www.resolv.org/site-ppa>.

Indeed, Jamali and Mirshak agree that “MNCs operating in conflict zones should consciously focus at all times on issues which address the root causes of conflict, including institution building, anticorruption measures, poverty eradication, human rights promotion, and security sector reforms”.\textsuperscript{120} This broadened conception of CSR also needs to include conflict-specific activities, such as corporate efforts to understand the underlying drivers of violence, engage in preventive diplomacy, fact-finding and risk assessment, and if conflict occurs, monitoring efforts and initiatives to encourage reconciliation. Drawing on Gladwin & Walter,\textsuperscript{121} these authors suggest that collaboration, or “the extent to which an MNC interdependently and complementarily works with others to create an improved environment”,\textsuperscript{122} encouraging the integration of businesses in conflict zones, clearly represents the best strategy and fosters tangible win–win outcomes for all concerned. Jamali


\textsuperscript{122} Jamali & Mirshak, supra note 120 at 449.
and Mirshak have produced a summary chart illustrating the benefits of collaboration by businesses in conflict zones, reproduced below.

![Image of the summary chart](image)

**Figure 3. Business–conflict linkages: MNC strategies, CSR, and conflict matrix.**


### C. Evaluation of the Mining Industry as “Corporate Citizen” in the DRC

Unfortunately, few of the initiatives described above in the DRC address governance on the level of state capacity-building, to address the “rule of law” and “open for business” aspects of good governance. Multi-national corporations may advocate for governance, and especially as participants in business associations with shared goals, but they have not yet done so in the DRC. To remedy this situation, PPA’s role as a host and hub should be stronger in encouraging collaborative efforts toward building good governance in the DRC, and should expand its membership to include downstream companies, including mining companies.

In the absence of state-building activities, is it possible to see these initiatives as providing some measure of supplementary governance? The cluster of conflict-free mineral initiatives in the DRC, as described above, when measured against the governance gap, appear to provide a supplemental level of governance along a couple of dimensions. The
mining industry provides a measure of the “peace and order” component of government, at least within a limited area of their operations. Further, they have credibly committed to the governance principle of “transparency” through EITI. As Kaufmann & Penciakova comment, “project-level disclosure will empower citizens to obtain information on how much their governments earn from natural resources, advocate for a fairer share of revenues, and verify government-published budget data. Once the data is disclosed and processed by analysts and civil society, citizens should also be able monitor the flow of money from the central government to regional and local governments, thus helping ensure that they are receiving what is promised.\(^{123}\)

However, the potential is significant for the mining industry in the DRC to do much more. This would involve the mining industry taking on the “strategic vision” piece of governance, and a greater role as a collective problem solver in the region.

One critique of efforts to reduce conflict minerals in the DRC has been the lack of involvement by civil society groups. This obviously fails along the dimensions of “participation” and “responsiveness to all stakeholders”, and probably also impacts on the mining industry’s ability to deliver governance related to “equity”. Despite the fact that civil society organizations in the DRC, like Groupe Jérémie, Réseau CREF, Justice pour Tous, Femmes pour la Paix et les Droits Humains and Association de Lutte contre l’Exploitation des Femmes et Enfants dans les Mines (ALEFEM), have directly or indirectly been involved in work concerning the mining sector, are advocates for human rights, and have documented violations against artisanal miners, none of the groups have been invited to take part in talks about reforming the Congolese mining sector.\(^{124}\) The PPA should spearhead the meaningful involvement of these groups, and look to water governance as a model for how all stakeholders might be brought to the table on an ongoing basis to manage a critical

\(^{123}\) Kaufmann & Penciakova, supra note 51.

\(^{124}\) Finnwatch & Swedwatch, Voices from the Inside: Local views on Mining Reform in Eastern DR Congo, online: <http://somo.nl/publications-en/Publication_3586>.
resource. This recommendation is consistent with Backer et al’s call for the democratic implementation of the UN’s *Guidelines for Multinational Enterprises* along the entire value chain of business activities.\(^\text{125}\)

This lack of civil society involvement may prompt speculation, as many of the mining groups involved in the “conflict-free” initiatives are also those who have been accused of human rights abuses during the civil war in the DRC.\(^\text{126}\) If engaging with civil society groups also involves an obligation to reconcile with civil society, this may represent a significant hurdle for some mining companies, however, it is a key piece in the UNDP’s principle of “accountability”. Going forward, civil society groups are key players in the governance of mining in the DRC, and serve as important sources of information about mining-related development issues, and can also mobilize public opinion on critical issues.\(^\text{127}\) Therefore, civil society groups should be given a place at the table in discussion of further consolidation of initiatives and strategies in the DRC.

Finally, overall, more should be done to include and influence Chinese mining initiatives in conflict minerals management in the DRC. There is some progress on this, as Chinese companies will now be required to use the *OECD Due Diligence Guidance* at the Congolese government’s request.\(^\text{128}\)

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\(^{126}\) See e.g. Alain Deneault, *Noir Canada: Pillage, Corruption et Criminalité en Afrique* (Montréal: Éditions Écosociété, 2008).


\(^{128}\) Congo Ministry of Mines, “Note Circulaire 002/CAB.MIN/MINES/01/2011,” September 9, 2011. Differences in the behavior of various corporate citizens in the DRC may be attributed to different domestic legislative contexts, norms of corporate behavior and/or consumer preferences, although further research is needed in this area.
Part V. Recommendations for the Mining Industry in the DRC

According to Baumann-Pauly & Scherer, the question is no longer why companies should engage in corporate citizenship, but how they can effectively do so.\(^\text{129}\) Assuming that the various attempts by the mining industry are in good faith and that the industry wants to reduce conflict in the DRC, as well as increase social cohesion, as recommended by the International Council on Mining & Metals’ *Partnerships for Development Toolkit*, Baumann-Pauly & Scherer make practical suggestions to promote the development of corporate citizenship. These apply to a particular mining company, or could be adapted to the mining industry or cross-sectoral initiatives.

Baumann-Pauly & Scherer define three prerequisites for corporate citizenship:

a) an explicit commitment to corporate citizenship in strategic documents, the company’s mission statement, and the company’s culture and ethos;

b) alignment of specific policies toward corporate citizenship, for example, human resources policies, as well as the creation of complaints procedures, reporting and evaluation; and,

c) interactive measures such as regular dialogue to facilitate solid stakeholder relationships.\(^\text{130}\)

Mining companies in the DRC that are serious about their governance role in the particular context of the resource curse would incorporate these measures. As an optimistic sign of movement in this direction, for example, Barrick Gold implemented a Community Relations Management System (CRMS) at all of its mines worldwide in 2012. The CRMS ensures community relations activities are carried out in a systematic and professional manner, including the implementation of grievance mechanisms, which provide local stakeholders with an “accessible, transparent mechanism” to voice concerns directly to Barrick Gold.\(^\text{131}\) To deepen this commitment and direction, the course offered by Revenue Watch Institute, Natural Resources Charter and the School of Public Policy at the Central

\(^{129}\) Baumann-Pauly & Scherer, *supra* note 89.

\(^{130}\) *Ibid*.

Part VI. Conclusion

The State-centric model for human rights protection is inappropriate in the context of the resource curse. Therefore, new models of supplementary governance are needed to serve the role of protecting and fulfilling human rights in these places. Businesses operating in these areas are well positioned and motivated to play a role in governance. However, business contributions should be more fully aligned with measures of good governance provided by the UNDP. These measures should be integrated as suggested by Baumann-Pauly & Scherer, and explicitly measured year after year with the goal of continuous learning. The cooperation shown by the mining industry in the DRC should be conserved, expanded and emulated by other industries. Models of resource-centred governance, such as water governance, serve to demonstrate an already-existing model of business participation in management of a valuable resource in consideration of human rights.

All resources, including water, are essential to human rights and human survival. Therefore, supplementary governance by private actors in resource-cursed regions is simply the next logical step toward making all resources work for the fulfillment of human rights. This suggests an expanded program of research into the equitable distribution of natural resources with human rights at the core.\(^{133}\)


\(^{133}\) As recently taken up by the Hague Institute for Global Justice. See Georgios Kostakos & Ting Zhang, "Equitable Distribution of Natural Resources: A Legal Principle, a Normative Guide, a Negotiating Tool, or a Pipe Dream?", Policy Brief No 3 (Hague Institute for Global Justice, 2013), online: <http://issuu.com/hagueinstitute/docs/policy_brief_3_equitable_distributi>. 

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