

## **SUBMISSION TO SENATE INQUIRY ON AUSTRALIAN TRADE AND INVESTMENT WITH THE COUNTRIES OF AFRICA – August 2017**

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I come from a development background, having worked with AusAID and the UN for nineteen years and am currently a Visiting Fellow at Crawford School, ANU. I worked in Africa for eight years and have subsequently spent the past five years studying the subject of mining and its impact, and incidentally, political development, on the continent.

I wish to focus my comments on aspects of Australian mining companies working in African countries. This focus arises from my current research into the socio-economic impact of a mining boom in one country and knowledge of the situation in others in the region, and also from my familiarity with government systems and politics – factors which impinge on the capacity of international companies to do business in African countries.

### **Introduction**

Inspired by the (generally) very high mineral prices over the past decade and a half there has been much hype raised at mining conferences such as Africa Downunder and the Cape Town Mining Indaba and in government reports, about what exciting opportunities there are for Australian mining companies to do business in African countries. As Minister Bishop said in 2015:

‘Australia’s investment in Africa is thriving. In 2014, total trade with African countries was \$10 billion, up from \$7 billion in 2009. It is the mining industry that is leading the way.’ ... ‘The Australian Government is working to ensure that these partnerships continue to prosper in the years ahead, in large part because of the contribution that Australian mining companies are making to African economies.’<sup>1</sup>

I will provide some evidence that the situation regarding mining (rather than the provision of goods and services per se) may not be as rosy as it first appears and that the difficulties and cost and risk of developing a mine is much higher than in many other places.

I also question whether Australian companies have significantly contributed, or are able to, to helping to address poverty in the region, despite the wealth being unearthed.

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<sup>1</sup>[http://foreignminister.gov.au/speeches/Pages/2015/jb\\_sp\\_150904.aspx?w=tb1CaGpkPX%2FIS0K%2Bg9ZKEg%3D%3D](http://foreignminister.gov.au/speeches/Pages/2015/jb_sp_150904.aspx?w=tb1CaGpkPX%2FIS0K%2Bg9ZKEg%3D%3D)

*The key issues as I see them are:*

**A. The lack of understanding by Australians about the nature of the business environment**

*The nature of the continent:*

- 'Africa' is not a country, but a multitude of countries (55<sup>2</sup>) with very different histories, geographies, cultures and capacities. It is also a region which has been long battered by colonialism and its aftermath, drought and floods, HIV/AIDS and other diseases, brain drain, exploitation, neglect of social services and infrastructure and wars, as well as by its own internal leadership weaknesses. By the same token, it is also rich in natural and other resources but the majority of its populations have not been able to benefit from this wealth..
- It is not a 'United States of Africa', with common rules and regulations and monetary systems eg over half the countries are Francophone with related financial systems, not British ones.
- Despite the diversity there is an overall coordinating body, the African Union, as well as regional groupings and standard setting organizations eg Western, Northern, Eastern, Horn, Southern, Central, for economic, political, human rights and justice matters helping to develop some level of coordination and standard setting or overseeing.<sup>3</sup>

*African Population dynamics*

The continent's population is growing at a relatively fast rate (2.5%, cv Australia at 1.37%), with 60% of the population under 25 years and the total population being just over 1.2b making for 17% of the global total.<sup>4</sup> Sixty percent of sub-Saharan Africans lives in poverty. On one hand these demographics make for an increasing market size, on the other it means more poor people and limited cash. It also means a large and increasing demand for schools, health services and infrastructure, a demand which already cannot be met. On the other hand there is a growing middle class, in addition to a small ultra-rich elite, both with expectations of modern, consumeristic lifestyles. There is increasing urbanization (now 40%, double that in 1970), which has some advantages in terms of ease of delivery of social services but also negative characteristics including over-crowding and water and sanitation issues. However, 60% of the population still live largely traditional lifestyles in rural areas, mostly focussed on subsistence agriculture and lacking access to social services (especially education) markets and disposable cash incomes. Consequently there are large differences in the types of societies within countries and their capacity to function in a modern, cash oriented world.

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<sup>2</sup> There are 55 'recognized states' as at 2017, plus some territories and one de facto state (Somaliland)

<sup>3</sup> Southern African Development Community (SADC), Arab Maghreb Union (AMU), Common Market for Eastern and Southern Africa (COMESA), Community of Sahel-Saharan States (CEN-SAD), East African Community (EAC), Economic Community of Central African States (ECCAS), Economic Community of West African States (ECOWAS)

<sup>3</sup> <https://qz.com/1016790/more-than-half-of-the-worlds-population-growth-will-be-in-africa-by-2050/an> States (ECOWAS).

Even many of those in urban areas are still closely linked to traditional practices and beliefs and bound by cultural connections. Into such a world a mining boom arose as the prices of minerals rose to historically high levels from the early 2000s and the question to ask is what extent the benefits of mining have contributed to national, provincial and local well-being or not.

*The structure of a government and its capacity to get things done and the rate at which it works:*

In 'western' countries business is conducted relatively smoothly. In most African countries the situation is different. The management of departments, consistency of application of rules and regulations, appraisal and monitoring skills and resource levels (financial and human) and level of capacity may not be conducive to establishing and maintaining a business. Regulations may be appropriate but not followed. Political interference may play a role regarding approvals, especially when the project is large.

Examples:

- Processes can be frustratingly slow, inter-departmental relationships (eg between ministries of Lands, Mines, Forestry and Industry) whose agreements are needed for approvals, difficult; performances may be hampered by poor office conditions and inadequate numbers of staff to process applications, especially during a mining boom and inadequate numbers of staff to monitor mines and appropriate use of licences, let alone identify illegal mining.

*Another Side of the Coin*

We are very used to hearing NGOs complain about how mining companies rip off developing countries but there is another side to that coin - 'the enemy maybe within', as a Tanzanian priest said at the Zambian Alternative Mining Indaba in 2012 ie it is their own government officials (and sometimes private sector individuals) who are doing the ripping, at the expense of both the companies and their own poor nationals. Africa has been cracked up to be a wonderful place to invest, especially in mining, but because of its highly political nature and the often weak rule of law developments risk being interfered with and halted by local factors at any time.

Examples:

- Constant interference at all stages of mine approval and follow-up processes, including (often) accusations, delaying tactics, cooked up legal cases, often in order to elicit bribes.
- Erratic government behaviour, including changing the tax rules a number of times in a few years, scrapping Development Agreements (both in Zambia) and currently in Tanzania.
- Threats on the lives of senior management who had to leave, trying to force their hand about a mine issue
- Trying to deal with Uranium as a side-product when no national policy, safety guidelines and specialist monitoring etc.
- Frontier and Kolwezi mines – DRC government grabbing the mines from First Quantum, (2009/10)

- Anvil staff reportedly made 'under force of law' to lend their plane and vehicles at Dikulushi mine for use by government forces in armed attacks on local people, which resulted in about 100 death, injuries and looting, 2004.<sup>5</sup>

### *State of Infrastructure*

Quartz clearly highlights the issues related to infrastructure: "In recent years, discussions on how to jump-start development in sub-Saharan Africa have been about addressing the infrastructure deficit. The lack of everything from roads and railways to electricity and running water are recognized as huge obstacles on the journey to sustainable development. The World Bank estimated in 2009 the infrastructure deficit in Africa would need \$93 billion spent each year for the continent to have any chance of catching up to developed countries. However in 2014, IMF reckoned just \$51.4 billion was spent on infrastructure—a \$40 billion shortage..."<sup>6</sup>

The basic requirements for developing a mine are power, water supplies and passable roads (especially in the wet season) and, preferably railways, but in practice they rarely exist where potential mines are to be found – hence a huge effort has to be put into establishing what are inherently expensive and time consuming exercises before one can even start work. In addition power black-outs are common in many countries (and worse during droughts), creating reliance on expensive generators, and having to reduce or even stop production. Such elements often promised by government as part of their 'business friendly approach' maybe delayed by inadequate workmanship and corruption. Government promises that infrastructure will be provided needs to be taken with a grain of salt and they may in fact, be anticipating that a company, in frustration, will take over that responsibility. Such weaknesses are not conducive to the conducting of effective and profitable business.

In addition, many countries are land bound and lack easy access to ports for import and export of goods – and require multiple border crossings before a port is reached. Railway systems are not always working well (if indeed they exist), and those that do need major renovations because of decades of poor maintenance, as most were colonial built. Lengthy hold ups at borders are also a major problem in many places. In order to cope with such hindrances it is necessary to have back-up plans and to expect delays to occur, adding to the cost of a business. Examples:

- Mumbwa (2014/15) and Solwezi powerlines (2004) and the situation of the only highway from Copperbelt to the North West mines, Zambia (2015/16/17).
- Plans for a key railway were commenced in 2006 but had not eventuated a decade later, despite a major mining boom, resulting in highways being used to transport sometimes massively over-sized equipment and later, heavy minerals, mixing dangerously with private and small scale commercial traffic and wrecking road surfaces (Zambia).

### *The nature of governance ie extent of transparency and pervasiveness of corruption*

Corruption is deeply imbedded in many African societies, at all levels, and as Professor Morris said this month: "Corrupt practices are legitimised, slowly but surely drawing

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<sup>5</sup> Burgis, T., The Looting Machine, Public Affairs, Pa, USA, 2015.

<sup>6</sup> <https://qz.com/africa-weekly-brief/> 'Roads v Schools', Aug. 2017.

ordinary government officials into the web of illegitimate criminal practices and procedures, thereby structurally consolidating it at all social levels, and deeply entrenching the power of this new predatory capitalist class within the governing ANC and the society at large.”<sup>7</sup> While he was referring to South Africa his statement applies more broadly, to varying extents. It would be naïve of any company to think that this issue will not arise and they need to know how to deal with it, as it has become almost normalized. It would also be naïve of GoA to deny that it doesn't exist and to be outraged when cases hit the media. As Engebretsen said in relation to Angola, but also relevant to other countries: ‘... its economy operates in similar ways to other places where state institutions are weak. Business deals and the exercise of power are typically based on relationships, and economic success comes down to whom you know. What happens then when the person you know leaves power?’<sup>8</sup> This context is not one that is quick and easy to learn and infiltrate in order to do business, let alone ethically.

Examples:

- Rio and the Guinea Simandou mine corruption case, 2016/7, also “... Sundance joins a growing list of well-known Australian firms, including Leighton Holdings, Tabcorp, Tenix and BHP Billiton, which have been implicated in offshore practices.” In the Sundance case in 2006 ‘... a geologist’s missives back to the company’s Perth headquarters sometimes included a rider about why it was necessary to countenance unusual business practices. “This is Africa,” [he] would simply explain.” – and adding that the son of the President was connected with the deal...’<sup>9</sup>
- In some cases key developments are purposely delayed by government until certain payments are made, in full knowledge that a company cannot afford to halt construction and delay commencing production.

The Sundance deal was (probably) an extreme example but cases of lower magnitude are common and throughout commercial systems, not just at the top levels.

*Risky Environment, politically, environmentally and health-wise:*

African countries present a range of risks which are not found in Australia and all of which may add to the cost and risk of doing business. Examples:

- Risk of military coups and other forms of dictatorship and collapse of the rule of law affecting businesses, possibly including take-overs of a company.
- Not only is petty theft of equipment and supplies a constant issue for mining companies in such poor countries but in some major security threats are ever-present, including long standing tribal tensions, as in southern and north eastern Congo DR and more recent political ones, as from ISIS in the Sahel states.

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<sup>7</sup> <https://www.dailymaverick.co.za/article/2017-08-14-op-ed-the-problem-is-greater-and-deeper-than-the-guptas-zuma-and-their-cronies/#.WZNi71FLdLM>

<sup>8</sup> <http://africanarguments.org/2017/08/14/angola-elections-ruling-family-dos-santos-worth-billions-what-happens-when-dad-steps-down/>

<sup>9</sup> <http://www.afr.com/business/sundance-resources-took-risks-in-congo-business-20160824-gr04h2>

- Risk of malaria and other tropical and water related diseases, and HIV infection which is very high in southern Africa in particular – the latter being a high risk in a ‘Mining Men with Money’ world.
- Sundance plane crash, 2010 – an example of flying risks of bad weather/tropical downpours, as well as poorly maintained planes and landing strips in some places, although vehicle crashes are more likely because of the poor state of roads, poorly maintained vehicles and unqualified and inexperienced drivers.

### ***B. Australian mining company track records:***

The issues are not all on the side of the African countries. Despite the glowing reports made in DFAT and other reports Australian mining companies do not have a blemish free reputation. Not all Australian mining companies have enough solid expertise or experience, they may have trouble obtaining experienced staff when working overseas, or not be committed to high standards of operation. Those in this situation consequently risk exporting poor standards, perhaps expecting and/or getting away with them because of weak African capacity to monitor (or through bribery) – just as some of them have done within Australia because of the politicization of the mining industry.<sup>10</sup> One company, extraordinarily, and suspiciously, even managed to obtain a licence to mine in one of Zambia’s most important national parks, although that matter is now in court.<sup>11</sup> Company management may also not be sufficiently patient (probably because of tenuous financial situations and being blinded by the promise of current high mineral prices) to develop effective relationships with local governments and communities and consequently go ahead and impatiently push developments in ways which create problems.

Examples:

- BHP’s behaviour at Ok Tedi, PNG in riverine disposing of waste and tailings, Mt Lyall’s pollution of local rivers and the experiences of Rio Tinto at Rum Jungle, Ranger, Mary Kathleen etc etc.
- Australia’s track record on mine closure is weak: ‘the growing shame of industry’ and ‘has a lamentable record...’ with over a hundred mines in Australia left in a poor state, and the authors also state that ‘... 75% of Australian mines undergo premature or unplanned closure.’<sup>12</sup>
- For many other examples read Paul Cleary’s ‘Mine Field, The Dark Side of Australia’s Resources rush’.
- ‘Xolobeni, South Africa: ‘local people have expressed dismay over the aggressive rhetoric deployed by Caruso, chief executive of MRC. (Australian)<sup>13</sup>

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<sup>10</sup> Cleary, P. Mine Field, The dark side of Australia’s resources rush, Black Inc., Collingwood, 2012.

<sup>11</sup> <https://voices.nationalgeographic.org/2014/11/14/lower-zambezi-national-park-mining-project-is-fatally-flawed-says-report/>

<sup>12</sup> Mineral Policy Institute, Ground Truths: Taking Responsibility for Australia’s mining legacies, 2016.

<sup>13</sup> <https://www.theguardian.com/environment/2017/mar/27/murder-pondoland-how-proposed-mine-brought-conflict-south-africa-activist-sikhosphi-rhadebe>

## C. Other Issues

### *The Importance of Social Aspects of Mining*

CEOs need to understand that mining is not just a technical and organizational subject but one which requires that due attention be paid to socio-political aspects of the communities with whom they are going to need to cooperate – which in their own right can make or break an investment. Not all senior managers are aware of the importance of seriously committing both time and money and experienced and qualified staff to the social aspects of mining, or are aware of how challenging social matters can be, even with the best team in place. Some also fail to recognize that developing local rapport takes time and that such a commitment is not a short term pre-mining exercise but one which needs to continue throughout the life of a project. Social aspects therefore require a significant on-going financial investment if a company is to earn and keep its ‘social licence’ and reduce the risk of a project going ‘off-the rails’ – an event which is not necessarily avoided by the dishing out of what is commonly referred to as Corporate Social Responsibility (CSR) contributions.

Social aspects are core mining business, not just something periphery, ‘soft’ and good for PR.

Examples:

- Xolobeni in South Africa where the Australian company MRC was involved, until local issues, including a murder, forced it to withdraw, after ten years preparation.<sup>14</sup>
- Bougainville, PNG, where, because of very serious community conflict over the mine which accelerated Rio Tinto lost the mine. (1980/90s)
- If they are not properly educated local communities may also hold unrealistically high expectations about how they will benefit and become angry and obstructionist, risking interruptions to functioning (Kalumbila, First Quantum, Zambia).
- Local people, less educated and skilled than the influx of outsiders, may resent their arrival and cause serious tensions which interrupt processes (Kalumbila).
- Case histories presented at the Cape Town and national Alternative Mining Indaba's of many cases of communities activating against companies which haven't performed adequately, 2010+. NGOs and others such as Churches are becoming increasingly organized in advocating, using the media and organizing for better deals for communities – and thereby act as a brake on companies not treating the local communities well – a brake which shouldn't have to be used.

### *Invest in Preparation:*

An important aspect of being able to address social matters effectively and in order to work anywhere near efficiently (and reduce business risks) companies need to invest time and

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<sup>14</sup> <https://www.theguardian.com/environment/2017/mar/27/murder-pondoland-how-proposed-mine-brought-conflict-south-africa-activist-sikhosiphi-rhadebe>

resources into preparation, and not to be in a rush, even though the minerals prices may be booming.

Examples:

- One company in Zambia leapt ahead, took short cuts and was halted in its tracks as a result of local pressure and government objections, which resulted in the development being held up for over a year - at great cost to the company – and much stress for all involved, including the community whose compensations and resettlement benefits were delayed.
- The same company at another mine site omitted to recruit social staff and undertake the social analysis required at the beginning of the project. Consequently it failed to understand the nature of their communities and to manage relocations and compensations effectively, which in turn resulted in some obstruction of developments and the earning a very negative reputation which took more than a decade to overcome.

If a company can't afford the time and money to invest in social matters then they probably shouldn't be working there - this may well be junior companies who have limited resources. This issue was picked up at the 2014 Cape Town Mining Indaba, where it was noted that while larger mining companies were improving their performance on social matters it was often junior miners with less resources and/or experience that under-delivered on their promises to communities. It was also noted that the sector as a whole was judged by the poorest performer. Another point is that the smaller companies tend to fly 'under the radar', unlike the larger ones who attract most of the limelight.

- This subject was an issue in parts of Zambia where some of the small companies appear to be getting away, almost, with murder, but certainly some violence and threatening behaviour. Other small companies are reported to have struggled to know how to deal adequately with communities and lack the resources to recruit skilled and experienced social staff to guide their efforts. Some have even been known to seek the advice of NGOs on how to manage social affairs.

#### *The cost of not paying due attention to social matters and of preparing well*

Some companies fail to recognize the cost of not attending to social matters. Consultancy firm Environmental Resources Management's research clearly indicates their importance, at least from the economic angle (although the primary reason ought to be to ensure social justice for the original inhabitants of the land whose lifestyles are being significantly disturbed). ERM reported at the 2014 Mining Indaba that its research into 67 mining projects showed that half missed their delivery date commitments between 2008 and 2013 – with far reaching economic consequences. Significantly, half of those delays were caused by community opposition.<sup>15</sup> Ignoring or underestimating social matters present a serious risk to a company's reputation, and consequently to share prices. This is especially so as NGOs and their other supporters, including the Churches, are increasingly organized and know how to work the media when community issues arise. Franks also talks about how the cost of staff

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<sup>15</sup> ERM, Highlights of the 2014 Mining Indaba and a Summary of ERM's Special Topic Workshop - Saving time and money through pro-active management of health, safety, community and environmental risks, Cape Town, Feb. 2014, and reported in Paydirt Magazine.



time in addressing problems is rarely factored in, and can be huge.<sup>16</sup> Even the Pope has spoken out about these issues in his encyclical ‘*Laudo Si*’ in 2015, talking about the moral responsibility to care for the poor (and the environment) and not relentlessly pursue profit, although this was not specifically aimed at Australian companies.<sup>17</sup> However, Cleary’s book provides many examples of where Australian companies did not adhere to ‘best practice’ in our own country – because standards were not enforced. It hardly seems likely that such companies will do so when working in even less well monitored countries far from home, although threats of exposure by NGOs and the media can inspire some constraints..

#### *D. Contributing back to government and communities*

There is no time to go into this subject in detail but in brief mining companies, including Australian ones, do provide considerable benefits to the countries they work in through the payment of taxes at the national and local levels, through provision of training of local staff in various skills, in creating mine related business opportunities and the provision of community inputs such as schools, health facilities and agricultural support. While the taxes amount to the most significant amount contributed they tend not to specifically benefit local communities as they are re-distributed as part of national budgets. Also, these funds tend to be quickly absorbed as national running costs rather than a percentage put aside in a Norwegian type ‘sovereign fund’ for a time when mining income is no more. Mis-use of funds also helps to dissipate the amount of available (see below).

While local communities receive considerable resources for priority areas such as health and education the impact is likely to be watered down by the increased demand created by the influx of outsiders who have flocked to the area in the hope of mine jobs. Training efforts, as in how to run a small business, are not necessarily effective because of poor levels of local education and sometimes cultural factors. Local governments may also develop an over-reliance on the company to provide facilities and even services, abdicating responsibility to the organization which can implement so much more efficiently than it can do. Another issue regarding the provision of CSR is that only government can contribute staff and so ensure sustainability. Company contributions are the icing on the cake, not the substantial, sustainable component.

#### **In Closing**

Mining, by its very nature, is boom and bust and highly dependent on outside forces ie global demand, and while prices have been (mostly) very high enabling good profits even from low value deposits, any drop can have dramatic effects. Consequently, its benefits to government and communities are inevitably short term and realistically it is probably only contributions to improving local education standards and some mining and business skill levels that are likely to stand the test of time. Those befitting will probably move on – despite the sustainability rhetoric so often espoused. Many deserted or run-down mining communities in Australia attest to that post-boom reality. Also, it is highly likely that the ones who personally benefitted significantly were elite individuals, not the general populace.

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<sup>16</sup> Franks, D. *Moving Mountains*, Earthscan from Routledge, NY, 2015.

<sup>17</sup> [http://w2.vatican.va/content/francesco/en/encyclicals/documents/papa-francesco\\_20150524\\_enciclica-laudato-si.html](http://w2.vatican.va/content/francesco/en/encyclicals/documents/papa-francesco_20150524_enciclica-laudato-si.html)

So it would be advisable for the Government of Australia to go lightly on the claims that Australian mining has been great for African countries.

Despite the issues raised, and because of the unusually high mineral prices it is apparent that some Australian companies have been financially successful in some African countries but some have done so at considerable risk to their reputations and cost to their investors because of the nature of the political environment. Others have been caught out, such as the Australian company which invested in uranium mining as the price plummeted in southern Zambia, the one which has attempted to mine in a national park and the other in South Africa.

The harsh reality is that working in such environments is 'no walk in the park' and is probably only worthwhile while prices are very high. It is also true that mining undoubtedly contributes something to national and local governments in the short term but also, and dangerously, to elites and to a limited extent, a few of the middle class, but also to the creation of greater inequality and continuing poverty for the majority of others. Given the currently prevailing situations in many African countries, mining income, whether from Australian mining companies or others, risks contributing to serious governance problems, especially the undermining (pun intended) of democracy and the rule of law as these quotes indicate:

"The ability of the rulers of Africa's resource states to govern without recourse to popular consent goes to the heart of the resource curse.... Instead of calling their rulers to count they are reduced to angling for a share of the loot. This creates an ideal fiscal system for supporting autocrats, from the Saudi royal family to the strong men of the Caspian states."<sup>18</sup>

"Normally, electoral competition is healthy, ensuring some accountability for elected officials. Political parties can be turfed out of office. In the resource states that go through the motions of democracy however, the rules governing both how power is won and how it is used are turned on their head...." It becomes what Collier calls, "survival of the fittest".<sup>19</sup>

An aspect of the above is that mining income provides a great source of income for the procurement of arms and other military/policing equipment which are mis-used by leaders against their own people to maintain control eg Zimbabwe, Zambia, Uganda, South Sudan, Sudan and DRC.

It would be wise for Australia to reduce its rhetoric that mining is "... an exciting opportunity for both Africa and Australia...".<sup>20</sup>

I would like to conclude my submission by suggesting that an evaluation of Australian company experience in mining in Africa over the past 17 years would be insightful. For example, looking at how many potential projects came to fruition, what issues companies faced, including how many court cases they were involved in, how many projects were as economically successful as planned, at what cost, in which countries, how much they returned to the country and the local communities, and how the communities fared. Such a study would shed light on both Australian company capacity and the conditions which they faced – and whether it had indeed been worthwhile facing the challenges of the 'Dark Continent' – and whether they had left a positive, long standing contribution.

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<sup>18</sup> Burgis, T., *The Looting Machine*. 2015.

<sup>19</sup> Collier, P., *The Bottom Billion* "Why the Poorest Countries are Failing and What Can be Done About it, 2015, Oxford University Press, quoted in *The Looting Machine*.

<sup>20</sup> [http://foreignminister.gov.au/speeches/Pages/2015/jb\\_sp\\_150904.aspx?w=tb1CaGpkPX%2FIS0K%2Bg9ZKEg%3D%3D](http://foreignminister.gov.au/speeches/Pages/2015/jb_sp_150904.aspx?w=tb1CaGpkPX%2FIS0K%2Bg9ZKEg%3D%3D)