22nd May 2020

VALLIS REPORT

RESOURCE NATIONALISM IN AFRICA

CASE STUDY EXAMPLES: DEMOCRATIC REPUBLIC OF CONGO, ZAMBIA AND TANZANIA

WHAT IS RESOURCE NATIONALISM?

"Resource nationalism is the tendency of people and governments to assert control over natural resources located on their territory."[1]

It is an economic policy that relies on state ownership or control of natural resources located on national territory to advance political, social or industrial objectives.

This policy states that resources belong to the people and that state employment are the best managers of resources against privatization. Consequently, resource nationalism conflicts with the interests of multinational corporations.

WHY WOULD COUNTRIES TURN TO RESOURCE NATIONALISM?

"Resource nationalism tends to peak exceptionally when there is a perception that commodity prices are high and countries feel they are not getting the benefit," said Claude Baissac, the head of Johannesburg-based risk consultancy Eunomix Business & Economics Ltd.[2]

The term has generally described initiatives by host governments to secure greater financial, regulatory, and sometimes operational control over extractive activities.

Some may argue that governments often use the discourse of resource nationalism to conceal their failures. Nationalisation policies are portrayed as benefitting the masses when, in reality, the wealth accrued continues to be concentrated in the hands of elites.

To ensure this does not happen, interests should be balanced with risk-sharing requires sacrifices from multiple stakeholders. In cases where corporate and state interests diverge, more practical approaches can provide solutions.

HOW ARE RELATIONSHIPS WITH FOREIGN COMPANIES BEING AFFECTED?

In the mining industry for example, capacity deficit among African mineral producers has complicated relations with foreign companies. Resolving tensions created by resource nationalism can only be achieved by understanding how these elements are interlinked.

The previous errors made by some governments is that they have continued to offer excessively generous terms to companies believing that such incentives are necessary to attract Foreign Direct Investments (FDI).

Therefore when governments abruptly or unilaterally revise existing agreements or break with established conventions, complaints by affected foreign companies will be inevitable and legitimate.

TRANSPARENCY WITHIN RESOURCE NATIONALISM

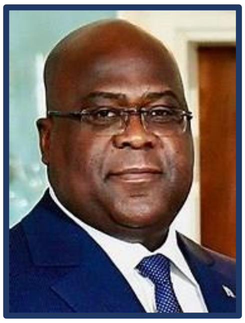
The Extractive Industries Transparency Initiative (EITI) is the global standard to promote the open and accountable management of oil, gas and mineral resources.

The initiative is guided by the belief that a country's natural resources belong to its citizens and they have established a global standard to promote the open and accountable management of oil, gas and mineral resources.

The EITI Standard requires information along the extractive industry value chain from the point of extraction, to how the revenue makes its way through the government, to how it benefits the public.

This includes how licenses and contracts are allocated and registered, who are the beneficial owners of those operations, what are the fiscal and legal arrangements, how much is produced, how much is paid, where are those revenues allocated, and what is the contribution to the economy, including employment.

THE DEMOCRATIC REPUBLIC OF CONGO (DRC)



Félix Antoine Tshisekedi Tshilombo (born 13th June 1963) is the President of the Democratic Republic of the Congo since 25th January 2019.

He is the leader of the Union for Democracy and Social Progress (UDPS), the

[1] *"Is Resource Nationalism on the Rise:Evidence from Service Contracts in Eight Countries"* – Abbas Ghandi and CY Cynthia Lin, University of California, September 3rd 2014.

[2] *"A Copper Mining Lesson from Zambia: History Repeats Itself"* – Antony Sguazzin and Matthew Hill, 23rd May 2019, https://www.bloomberg.com/news/articles/2019-05-23/a-copper-mining-lesson-from-zambia-history-repeats-itself

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oldest and largest party of the Democratic Republic of Congo, succeeding his late father Étienne Tshisekedi in that role, a three-time Prime Minister of Zaire and opposition leader during the reign of Mobutu Sese Seko.

WHAT ARE THE DRC'S PRINCIPAL NATURAL RESOURCES?

The Democratic Republic of the Congo is one of the richest countries in the world in terms of natural resources. It sits on an estimated $24 trillion worth of natural resources, including 3.2 trillion cubic feet of natural gas, large deposits of iron ore, platinum, diamonds, gold and uranium, as well as 106,270 square kilometers of arable land.

Real GDP growth dropped to 4.3% in 2019 from 5.8% in 2018 due to a slowdown in extractives, the economy's main driver despite a fall in the price of some raw materials (copper and cobalt). Agriculture has suffered from low productivity while energy shortages have hindered industrialization efforts. Growth has been driven by domestic demand, particularly private investment and public consumption.

The expected adoption of the 2019–23 Strategic Development Plan aims to give national priorities more visibility. Thanks to the country's low debt (13.7% of GDP for external debt and 6.5% for domestic debt in 2018), new external concessional loans can be secured.

The economy remains dependent on mining products, which makes it vulnerable to global price fluctuations. The DRC has introduced policy and legislation to strengthen governance, use and control of forestry, mining and agriculture.

The country also contains the world's second largest tropical forest, which can make a significant contribution to the mitigation of climate change, therefore adds another dimension of challenge to government, civil society and development agencies alike.

Access and distribution of benefits from investments in land, forests and other key natural assets are fundamental for growing the wealth and stability of the population of the DRC.

WHAT HAVE BEEN THE INITIATIVES TAKEN TO PROTECT ITS RESOURCES?

A number of codes have been put in place to protect and control resources from over exploitation.

The Forest Code provides for benefit sharing with communities living around logging (and conservation) concessions, alternative livelihoods programmes are expected to support communities that live around strictly protected areas. Sadly few of these programmes have had success so far. Figure 1 below shows deforestation for rice planting.

Figure 1: Forest cleared for rice planting in central DRC. Photo by John. C. Cannon.

The Mining Code establishes that the state owns these assets. Due to the potential high revenue generated from licensing, exploitation and taxation, the exploration of mineral resources supersedes any other land use.

A growing population coupled with intense international competition for natural assets to fuel domestic and foreign economic growth is putting pressure on forests in the DRC.

WHAT ARE THE DANGERS TO THE DRC'S RESOURCES?

Future deforestation may be driven largely by the expansion of palm oil plantations into forest regions. Virtually all of the dense humid (high carbon) forests of the DRC are on soils and in climatic conditions that are suitable for palm oil production. Many agriculture investment companies from Asia, including Chinese firms, pay about $300 per ha for forest lands that will be transformed into palm plantations.

Other activities such as industrial mining continue to threaten the DRC's forests and biodiversity, due to the overlap between the mineral resources, tropical forests, protected areas and a lack of adequate environmental and social safeguards. Figure 2 is the largest copper mine in the DRC.

Figure 2: An open pit at the Tenke Fungurume mine. Freeport-McMoRan Inc. The largest copper mine in the Democratic Republic of Congo. (Photo: Johnny Hogg / Reuters)

Poor governance of natural resources means that the DRC exports its riches thereby aiding the growth of economies elsewhere while its own natural resources dependent population continue to experience high levels of poverty and internal conflict.

The DRC is short of qualified evaluators despite its immense mineral wealth. As such, administrative fiat and misguided legislations integrated in the language of resource nationalism become the norm as national regulators attempt to rescue back the initiative.

China primarily wants more access to the enormous copper and cobalt deposits, for its own development. Mining investments account for nearly one-third of China's total foreign direct investment in African nations.

Primary motivations that lie behind China's push toward increased investments in African nations include the desire to secure a solid base of raw materials to fuel China's own rapidly growing economy, the desire to increase China's global political influence, and the major growth opportunity presented by emerging market economies in Africa.

These lucrative minerals are what led two Chinese companies to make the largest deal in Congo's history, also known as Sicomines. They will partner with Congo's government mining company to extract 6.8 million tons of copper and 427,000 tons of cobalt over the next 25 years.

In exchange for the minerals, Chinese companies are spending $3 billion to build roads, hospitals and universities in Kinshasa and throughout the Congo. This deal is part of a new philosophy that combines development aid and mineral concessions in a single package. It's a business model the Chinese are replicating across the African continent, which also happens to be the most rapidly growing market in the world. Figure 3 is an example of the presence of Chinese future investment in the DRC.

Figure 3: Chinese state-owned enterprises are making deep, long-term investments in Congo's extractive industries. Image by Jacob Kushner. Congo, 2013.

WHAT DOES THE FUTURE LOOK LIKE FOR THE DRC?

In his first address to the UN General Assembly, in September 2019, Félix Tshisekedi underlined the need to reform the primary body charged with maintaining international peace and security. He added the DRC's commitment towards the SDGs in achieving a more just and equitable world.

Mr. Tshisekedi emphasised that, while African countries are the "pivot of sustainability", they also long for development that protects the natural environment, such as the huge forests in the DRC, which account for nearly 50 per cent of forest cover on the continent.

"We are resolutely committed to protecting our forests. However, the preservation of our national heritage cannot be done at the detriment to our development," he said, before adding the need for better integration of environmental issues in development financing.

The DRC is also rich in natural resources needed to power the energy and digital transition. President Tshisekedi proposed opening up the country to regulated mining in exchange for development support.

"The world needs cobalt, it needs coltan, and it needs lithium. We want industrial jobs. We need training and we need development,"

ZAMBIA

Edgar Chagwa Lungu (born 11th November 1956) is the 6th and current President of Zambia.

Edgar Lungu is a former Minister of Justice, Minister of Defence and Minister of Home Affairs.

Lungu was elected to a full presidential term in the August 2016 election and was sworn in for his first full term on 13th September 2016.

WHAT ARE ZAMBIA’S PRINCIPAL NATURAL RESOURCES?

Zambia is rich in natural resources such as copper, cobalt, silver, uranium, lead, coal, zinc and gold. It holds 6% of the world’s copper reserves and is a major world copper producer. Its cobalt exports are also on the rise as a result of the increase in demand for electronics and electronic cars. Mining is also one of the major businesses in Zambia. As such, the government has pushed for 25 to 35 percent state participation in mining projects.

WHAT ARE THE DANGERS FACING ZAMBIA’S ECONOMY?

Mining has a long and complex history in Zambia which has impacted the government’s economy for decades. Ongoing disputes between the government and private mining corporations create financial issues that must be resolved quickly with leaders negotiating and renegotiating imports, exports and taxes.

External debt in Zambia has tripled to $10.1 billion over the five years to the end of 2018, with interest charges ballooning. Its dollar-bond yields have climbed to almost 20% this year, the highest except for Venezuela, which is in default.

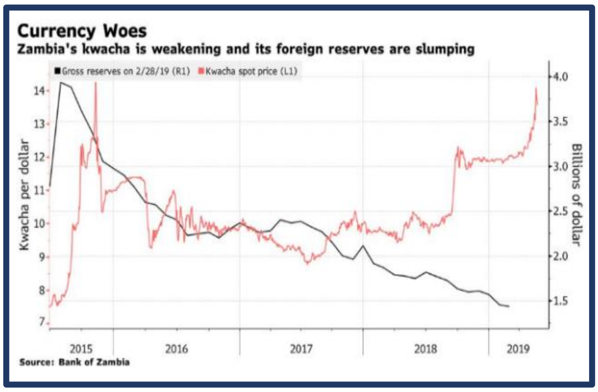


Figure 4: kwacha per dollar: source Bank of Zambia.

Figure 4 illustrates the kwacha slumping 13% against the dollar and the International Monetary Fund’s forecast for 2.3% economic growth this year is the slowest in 21 years.

“How do we run resource rich countries?” Baissac said. “Zambia is a particular example of a country that has not managed to do this.”[3]

ZAMBIA’S RESPONSE TO THE CRISIS.

In 2019, President Edgar Lungu took legal steps to take over the operations of Vedanta’s Konkola Copper Mines, alleging the unit lied about expansion plans and cheated on taxes. See Figure 5 showing Vendata headquarters in Mumbai.

Figure 5: The logo of Vedanta installed on the facade of its headquarters in Mumbai, January 31, 2018. REUTERS/Danish Siddiqui/File Photo.

Vedanta in turn accused the state of not issuing VAT refunds it is owed. The company also claimed it had not paid the levels of income tax the state demands because its business is unprofitable due to rising tax and electricity bills.

Peter Leon, a mining lawyer at Herbert Smith Freehills in Johannesburg, sees Lungu’s attack on Vedanta as part of a growing trend in African mining companies towards ‘resource nationalism’.

Similarly to countries like Tanzania and the Democratic Republic of the Congo, Leon believes some African governments offer mining companies incentives to invest – with liberal legal frameworks and fiscal incentives.

‘Once investments are made (and capital sunk), the government may flex its legislative muscle to claim a greater share of the returns than the original laws or licence terms allowed,’ he wrote in the *Financial Times*.

[3] *“A Copper Mining Lesson from Zambia: History Repeats Itself”* – Antony Sguazzin and Matthew Hill, 23rd May 2019, https://www.bloomberg.com/news/articles/2019-05-23/a-copper-mining-lesson-from-zambia-history-repeats-itself

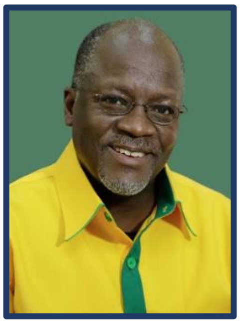
WHAT DOES THE FUTURE LOOK LIKE FOR ZAMBIA?

Zambia's future prosperity will depend on a strong manufacturing and industrial base. This will require identifying exactly where along global supply chains Zambia is likely to have a competitive edge and create appropriate incentives for investment into those productive spaces.

Building strong spatial connections between manufacturing, mining and downstream value addition is a crucial dimension to making investment work in a high-cost environment.

Mining – on a micro and macro level – needs to operate as a flywheel that generates sustainable economic activity ultimately independent of mining itself.

TANZANIA



John Pombe Magufuli (born 29th October 1959), is a Tanzanian politician and the President of Tanzania, in office since 2015.

He is also the chairman of the Southern African Development Community.

Running as the candidate of the ruling party in Tanzania (CCM), he won the October 2015 presidential election and was sworn in on 5th November 2015. Magufuli's presidency has been marked by a focus on reducing government corruption and spending and also investing in industries in Tanzania.

HISTORY OF NATIONALIST POLICIES IN TANZANIA

Since its independence in 1961, the initially weak ruling class pursued nationalist policies in order to strengthen their power.

A socialist ideology known as Ujamaa became popular, consisting of the nationalisation of private properties and a villagization programme which led to 80% of people being relocated into villages. Tanzania was the first country to nationalize private capital.

The political stance became much more liberal in the 1980's. Critics say this led to the success of multinational corporations and not to the local people, the poorest of whom were in fact disadvantaged.

CURRENT POLITICAL STANCE IN TANZANIA

President Magufuli is described as instigating and pursuing policies of "economic" and "resource nationalism".

As a result, recent laws have been passed, designed to boost revenue and societal benefits (such as employment levels and training for local people) which have caused friction with international companies who have invested in Tanzania.

LAWS AND AGREEMENTS MADE RELATING TO NATIONALISM

1. MINING

1.1 Increased sovereignty over, and greater revenue from, natural resources.

1.2 Increased taxes on mineral exports; higher government stake in mining operations; forced construction of local smelters; training for local people; preference to be given to local suppliers.

2. COAL

2.1 Coal importation was banned.

2.2 Local companies are forced to buy local coal.

3. AGRICULTURE

3.1 Higher prices for farmers.

4. TELECOM

4.1 Private agreement signed with Bharti Airtel.

4.2 More dividends; increased stake from 40% - 49%.

WHAT HAS THE PUBLIC RESPONSE BEEN?

Many companies invested in Tanzania have raised concerns regarding recent policies, and some have gone as far as to challenge the legality of actions by the Tanzanian government.

South Africa based Mining Review Africa said that the new laws show that "ongoing disputes between the government and foreign mining companies is moving towards nationalisation and the non-enforcement of any arbitration awards in local Tanzanian courts".

The government denies this claim, stating that laws are to ensure "Tanzanians benefit from the extractive industry".

Government spokesman Dr Hassan Abassi said "The laws are not intended to lay the ground for nationalisation but seek to ensure the sovereign ownership of natural resources and this is in conformity with international principles".

In 2019, the government again denied claims of nationalisation. Tanzanian Minister for Foreign Affairs, Palamagamba Kabudi, said the country has no plans to confiscate or nationalise foreign investment and that recent alterations to laws were intended to create a better investment environment.

EXAMPLES OF RECENT DISPUTES WITH FOREIGN COMPANIES

1. ACACIA MINING – 2019

1.1 What was the dispute?

The Tanzanian government accused Acacia of understating the value of exports since 2000, in order to pay less tax. They charged Acacia with a tax bill of USD $190 billion (the current worth of all proven gold in Acacia's mines is just over $10 billion). Magufuli also requested the Mining Minister to resign.

Critics say it is extremely unlikely to be true.

1.2 Has an agreement been made?

Yes – Acacia Mining agreed to pay $300 million, share future profits 50:50 and a ban on concentrate exports was lifted.

2. WINSHEAR GOLD – 2020

2.1 What was the dispute?

Winshear Gold claimed the Tanzanian government breached international law by cancelling all retention licenses in 2018, causing the loss of all profit and investment. The rights over all areas covered by retention licences went to the government.

2.2 Has an agreement been made?

In January 2020 they submitted a Notice of Intent to Submit a Claim to Arbitration.

3. INDIANA RESOURCES

3.1 What was the dispute?

Indiana Resources are also suing the Tanzanian government over repossessed retention licenses.

3.2 Has an agreement been made?

Negotiations began in January 2019 and have continued till the present day

"The country has been short-changed, and continues to be cheated out of the much needed revenue that would greatly boost our health sector, infrastructure, and others" – *President John Magufuli, 2017*

SHOULD INVESTORS BE WORRIED?

Questions have been raised regarding the safety of future investment in Tanzania, as Magufuli seems intent on boosting Tanzania's sectors, whatever the cost to multinational corporations who have already invested or are considering investing in Tanzania.

Investment in the mining sector has stopped as a result of the dispute with Acacia Mining. In response to the delays in negotiations, Magufuli said "I will close all mines, and give them to Tanzanians".

Magufuli's policies has raised criticism, earning him the nickname "The Bulldozer". He is also described as being more concerned with his critics than resolving the real issues affecting the country.

A new law was introduced which states that the publication of statistics differing from government statistics is illegal; an act which the World Bank has called "deeply concerning".

A report by the International Monetary Fund (IMF) stated the presence of "unpredictable and interventionist policies that worsen the investment climate and could lead to meagre [or even negative] growth". This report was blocked from publication by Magufuli.

Investors fear the true state of the economy is being hidden.

"We believe that there is a question mark about future policies around ownership of businesses" – *Konstantin Makarov, Stratlink (boutique investment advisor for East Africa)*

CONCLUSION

The COVID-19 pandemic has caused increased levels of government intervention across the globe. Governments are incurring huge costs protecting jobs, helping businesses and supporting the public. The result of this may be increased nationalism in order to subsidise these costs and prevent a repeat of the current situation.

However, it is important to add that COVID-19 has also potentially presented opportunities for governments to take on a new approach.

Instead of insisting on beneficiation principles, governments could promote planning policies which help local industrialists and small businesses localise operations and settlements around mining nodes. In this way, communities could benefit from mine infrastructures and inputs and governments can pursue more focused public-private partnership for infrastructural development.

This leveraging approach can create successful African 'resource-for-infrastructure' models. In the end, resource nationalism is merely symptomatic.

Weak governance and capacity deficits represent much more serious obstacles to achieving win-win outcomes for stakeholders in extractive activities in Africa.

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