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THE INTERVENTIONIST STATE, MINING CODES AND MINERAL RESOURCE GOVERNANCE IN AFRICA

Abstract:

In contrast to the early post-independence era where the state played a preponderant role in mining, the 1980s saw African countries, mostly encouraged by the Bretton Woods institutions, updating their mining codes to attract foreign capital. The reform measures of liberalization and privatization in the mining sector and the expansion of transnational mining investment largely diminished the role of the state, either resulting to its 'selective silence' or even to its retraction. However, after three generations of these reforms, the ability of the mining sector to contribute to Africa's sustainable development is questionable. This study employs three major contending perspectives that offer a nuanced approach to understanding the state of flux of mining codes and mineral governance in Africa. It contends that the extractive and mining sector in Africa is straddled between greater control of mineral sector by local states and the attraction of foreign investment. It also argues that the activist, interventionist state is making a comeback in mineral resource governance in Africa. This has led to the need to question whether the era of the Washington Consensus is over, and how the role of the state in Africa is being reinterpreted and renegotiated, especially towards the fourth generation of mining codes.

Keywords:

Interventionist state, mining codes, mineral resource governance, development, post-colonialism

JEL Classification: Q32, F68

Introduction

Growing attention has been given to the mining industry in recent years. Apart from the socio-economic growth arguments frequently advanced (UN Interagency Framework Team, 2012), the mining sector as a sustainable development pole has also been seriously challenged on ecological grounds (Sagebien and Lindsay, 2011). As the debates on natural resource governance in Africa move forward, and as academics and policy makers continue to make strides towards ensuring that Africa benefits from its extractive and mineral resources, one thing is certain: Africa needs to reform its mineral codes to reconcile short-term demands for competitiveness to attract investment, with longer term objectives of sustainability. In order to address this challenge, several countries in Africa have started updating their mining codes in tune with the African Mining Vision. However, with the review of the mining codes, has emerged the question of sustainability and beneficiation.

Discussion has settled into two related, but distinct, streams. The first involves a normative concern that reforms underway in the mining sector will enable Africa 'secure a sustainable sector that is socially and economically integrated into the long-term development aspirations of its peoples' (AU, 2009:16). The second consequential analytical debate regarding reforms in the mining sector concerns the implications for African countries to attract foreign capital (Bristow, 2013). Although, attempts toward reforming their mining codes from the 1980s through1990s has always been considered an important strategy for African countries to attract foreign investors, recent efforts, coinciding with what Besada and Martin (2013) call the 'fourth generation of mining codes', have begun to give more attention to the significance of the mining sector in advancing Africa's sustainable development agenda. Paradoxically, others argue that, such code changes proposed by a number of African countries may indeed 'deter further investment on the continent' and place Africa in a disadvantaged position in competing with other emerging prospective regions, such as South America, Asia, the Pacific Rim, Eastern Europe and Russia (Bristow, 2013).

This article, couched within three contending perspectives: modernization, dependency and statism, examines the growing impetus for the change taking place in Africa's mining codes over the last twenty years. It adopts primarily qualitative research methods, based on in-depth review and analysis of secondary sources of

data. It shows that the extractive and mining sector in Africa is straddled between greater control of mineral sector by local states and the attraction of foreign investment. It also argues that the activist, interventionist state is making a comeback in mineral resource governance in Africa. This has led to the need to question whether the era of the Washington Consensus is over, and how the role of the state in Africa is being reinterpreted and renegotiated, especially towards the fourth generation of mining codes. Rather than focusing on changing mining codes, however, I examine intensively specific aspects of mainly reforms that are redefining the role of the state, in order to investigate the contours of a new regulatory framework in the extractive and mining sector.

Contending Perspectives in Development Policies in post-Colonial Africa

“In theory, there is no difference between theory and practice, but in practice there is.”
Albert Einstein

In this section, the paper discusses the three major contending perspectives in the literature that provide the theoretical and conceptual lenses in understanding development policies in post-colonial African states. Although these perspectives have been extensively discussed in the development literature, focus here is on how they define or redefine the role of the state. The modernization, dependency and statist orientations together with their variants, offer a nuanced approach in understanding the changes in the role of the post-colonial state in the developing countries.

The modernization perspective, which took root in the development literature in the 1950s and 1960s, is a Western scholarship concerned with the developmental potentials of poorer countries, especially in Africa, Asia and Latin America. At the heart of this perspective is the belief that the experience of the industrialized countries, especially the United States and Britain, offer a useful model for developing countries (Rostow, 1960). Seeing development as a unilinear path, poorer countries were required to imitate or thread the same successful path or recipe of early industrializers. The reason while developed countries were successful, argued the *modernizationists*, was because they had gotten this successful recipe, consisting of market economics, social mobility, political stability, liberal democracy, and the espousal of ‘modern’ values typical of the Anglo-Saxon cultures (Chan and Clark, 1990).

The modernization perspective also offers a neo-classical view of economic development, emphasizing the importance of ‘getting prices right’ and the need for governments to provide a stable business climate but to otherwise refrain from interfering in the marketplace. Furthermore, it emphasizes the need for an outward-looking strategy of industrialization, considering the injection of capital as a sure way to close the gap between the rich and poor societies (Chachage, 1987). Therefore, developing countries are advised to adopt an ‘open door’ policy of welcoming foreign investment and technology while pursuing their ‘comparative advantage’ in international trade.

However, the modernization perspective has been seriously questioned on all its fronts. Although a rehash of the criticisms is not necessary, for this paper, a few are worth mentioning: it has been accused of being deterministic, Eurocentric and failing to explain the questions of the exploitation of the ‘periphery’ by the ‘centre’, as well as the impossibility of autonomous industrialization in poorer societies. Its unilinear and dichotomous conception of development has also been criticized. The modernization perspective has also been decried for failing to recognize the creative and initiative of poor countries. By placing value on externally sourced aid without attending to the inhibiting conditions, the perspective has led poorer countries to blind alleys. Finally, beyond theoretical concerns, the widespread and persistent economic stagnation, social deprivation, and political oppression in poorer societies – for example, as manifest during Structural Adjustment Programs - led dependency scholars to object to the diagnosis and prognosis of the neoclassical modernizationists. It is to the former that this paper now beams its search light.

The dependency perspective is a reaction to the failure of the conventional approaches to economic development that emerged in the aftermath of the Second World War. This perspective argues that modernization distorts the development potential of developing countries by failing to articulate the true relationship between the developed and poor regions of the world (Frank, 1969).

Radical *dependentistas* (Amin, 1974; Frank, 1969) have pointed out the impossibility of poor countries to achieve economic growth and political autonomy due to the nature of the capitalist world system that exploits and subjugates them to the benefit of the

rich countries. In a world of unequal and asymmetrical power relationship, -where poor countries depend on the rich for their trade and investment- they argue that poor countries would be perpetually locked in a position of perpetual inferiority and underdevelopment. Chan and Clark (1990: 564) are apt to remark that dependency syndrome gives rise to 'economic stagnation, social inequality and deprivation, authoritarian politics and loss of national autonomy'.

Other *moderate dependentistas* such as Bornschier and Chase-Dunn (1985) revised this earlier position, when they looked at the development experiences of countries such as Brazil, which showed that rapid economic growth was possible for dependent periphery countries. However, this associated-dependent development in the periphery tended to be fragile, limited, uneven and conditioned by external forces. They also argued that such growth was structured to exclude the masses from the 'modern sector' (Chan and Clark, 1990:564).

Despite the differences between the radical and moderate dependentistas, they both argue that the integration of poor countries in the capitalist world economy through trade and investment should be deleterious to the economic and social development of poor regions. Weary of a strategy of economic growth and welfare promotion based on external dependencies, the dependency orientation advocates for a self-reliance posture such as industrialization through import-substitution.

The dependency perspective has been criticized for its inability to critically analyze the applicability of externally imposed development initiatives, tending towards 'system maintenance' (Shenton and Cowen, 1996). It has also been criticized by free-market economists who argue that the dependency perspective will entrench corruption and absence of competition. Lastly, it has been criticized for exaggerating the 'explanatory power of economic imperialism' in understanding the historical change in the South, while paying too little attention to 'political motives behind imperialism or the autonomous power of local political circumstances' in influencing the direction of change in the global South (Smith, 1981:757).

The statist perspective, traced to the writings of Saint Comte in the 19th century, and elaborated by American economist Veblen as well as interventionist theorists such as

Keynes and Hobhouse, challenges the argument that the state in developing countries either plays a minor part in economic progress and popular wellbeing, or is a compliant agent of foreign interests. The main argument of this perspective is that the state in poor countries must ‘play an active and forceful role in mobilizing and directing resources in the pursuit of economic modernization, popular wellbeing, political stability, and national autonomy’ (Chan and Clark, 1990:564). The statists do not assume that economic growth will naturally result from the operation of a competitive market or that the benefits of economic growth will naturally trickle down to the masses, nor do they suppose that developing countries are locked into subservient exchange positions in the capitalist international system (Chan and Clark, 1990:565). Midgley (1995) calls for a state-directed approach to development, where the state plays an important mediating role in shaping the impact of the market and society. Government actions or inactions are germane to policy performance.

Nordinger (1981) amongst other theorists has criticized state theorists for ignoring the historical questions of the state as they seek explanations in the form of generalizable statements, applicable to every political order. Even those who have adopted an historical explanation, such as Skocpol (1979), are unable to offer a historical explanation of the appearance of the modern state (Mitchell, 1991). The statist perspective to social development exemplified by what was called the ‘unified socio-economic planning’ approach has also been criticized for being bureaucratic and top-down (Midgley, 2013)

These contending perspectives are attempts to conceptualize the appropriate role of the post-colonial state in development. Therefore, the mining sector, especially because of its historical link with development in Africa will enable us understand how these perspectives have conditioned the changes in mineral resource governance in Africa. This must necessary start with a look at the nature and character of the post-colonial state.

In recent studies that try to come to terms with mineral resource governance in Africa, the state is a much recurring term and concept. In the broadest of strokes, this body of work can be divided into two groups: those who, in one way or the other, acknowledge the expansive role of the state in development and those who do not. Admittedly, this

rough division is somewhat short of subtlety. However, what has escaped the attention of studies that seek to understand the impact of structural adjustments and liberalization experiences of African economies has been the fundamental redefinition of the 'state' (Campbell, 2003). Thomas Biersteker was the first to draw attention to the political implications of rolling back the state in Africa. Biersteker (1990:480), who defined a state as referring "principally to the instrumental institutions with a capacity to influence and structure society", identified various types of state intervention in the economy, and showed how the twin Bretton Woods institutions' prescribed liberalization reforms during the 1980s had sought to limit the influence of the African state in participating in the economy.

Thomas Biersteker's work offers a suitable framework for understanding ongoing reforms in mineral regulation in Africa. First, he suggests that, reducing the state's intervention in production might undercut its ability to redirect its regulatory intervention on behalf of the private sector; second, that certain policy recommendations could undermine the fiscal basis of the state. And lastly, Biersteker suggests that by 'failing to mobilize the private sector adequately and by weakening the fiscal basis of the state, the Bretton Woods's programs, could undermine the legitimacy of the state itself' (2010:199). It is therefore obvious that how the ongoing reforms in the mining sector can change the skewed and asymmetrical power relations that continue to exist in Africa, remains fundamental.

The Mining Sector in Africa

The mining and extractive sector plays a major role in African economies, occupying a primary position at the start of the resource chain. In a number of high-mineral profiled countries, such as Zambia, it has accounted for more than 23 percent of the GDP and more than 80 percent of their total merchandizing exports, or both (ICMM, 2012:4). In some African countries, mining constitutes a substantial share and leading position in their commodity exports, offering the countries an opportunity to build significant infrastructure and for the participating of the private sector in sustainable development. For instance, a *World Economic and Financial Surveys* on sub-Saharan Africa reveals that from 2000 to 2011, about 15 percent of the annual output of sub-Saharan Africa and 50 percent of its export came from non-renewable natural resources (IMF, 2012: 65 cited in Baseda and Martin, 2013).

Africa is richly endowed with significant mineral resources. The US Geological Society ranks the continent as the largest or second-largest reserve of platinum group metals, bauxite, cobalt, industrial diamonds, manganese, phosphate rock and zirconium (KPMG, 2013:2). Although the continent is believed to contain a third of the world's mineral resources, limited geological mapping means that much of it is unexplored (Prichard, 2009:240). In addition, the continent's share of production significantly lags beyond its share of global resources. Furthermore, the absence of value-addition in resource economies in Africa does not augur well for the extractive and mining sector. This trend is suggestive of the fact that most of Africa's minerals are exported as ores, concentrates or metals, without significant value-addition, thereby leading to the absence of backward and forward linkages.

Africa has been an arena for mining activity since the early 1800s. As a colonial enclave, it acted as a feedstock for the world's mineral hungry Europe. British, Belgian and Portuguese colonies are noted to have commenced the production of metals and gems as early as 1800s. The mining sector also accounted for majority of foreign capital invested on the continent between 1870 and the Second World War (KPMG, 2013). An indelible impact of the mining and extractive sector in Africa during colonialism is better appreciated from the colonial policies of cash economies and infrastructure investments with the objective of expanding access to valuable mineral resources. It is argued that during this period, the copper mines of Zambia and the Democratic Republic of the Congo (DRC), the Ghanaian gold fields, and tin mines in northern Nigeria informed the colonial policies of constructing new railways and other transportation infrastructure (Freund, 1984). For instance, the development of infrastructure within the Jos area, in northern Nigeria, particularly railway and electric power, was designed to service the mines and provide access for the movement of tin out of Jos (West Africa Insight, 2013). This reinforced the enclave status of the mines and the facilitation of their externalized integration (AU/UNECA, 2009:46).

As expected, many post-independence African governments responded to the limitations of the mining regimes they inherited and tried immediately to address this unfavorable terms by nationalizing the extractive and mineral sector (Prichard, 2009). State mining firms increasingly assumed ownership of existing operations (for

example Ashanti Goldfields in Ghana), by taking substantial shares in existing mining companies with 41.5 percent of mineral production on the continent under state control by 1989, and another 40.5 percent controlled by state-private sector joint ventures (World Bank,1992 cited in Besada and Martin, 2013). Also, stricter regulations relating to local employment, domestic input sourcing, improvement schemes, and taxation were implemented (Prichard, 2009).

Although these policy steps were intended to enhance their share of returns from the nation's mineral resources, the performance of the state-mining enterprises were dismal. The new management and procurement structure simply meant that the basic control of running the business remained unchanged. New avenues for the repatriation of profits were perfected and became visible. Even in African countries that favored local processing of their raw materials and proclaimed a strategy of import substitution based industrialization, state mining companies rarely processed domestic minerals for exports, thereby perpetuating the colonial policy of 'non-value addition'. Similarly, this period witnessed a tremendous decline in Africa's share of worldwide mineral production. Bridge (2004) shows that this low mineral prices discouraged investment in high-risk areas, leading to a collapse in exploration operations on the continent. During the 1980s, for example, sub-Saharan Africa accounted for 21 percent of the world's land mass, yet received only 4 percent of global expenditures on mineral exploration, a figure that was only 5 percent by the early 1990s (KPMG, 2013).

This decline in mineral prices in the 1980s had serious repercussions on African economies, especially severe indebtedness, that necessitated the World Bank's intervention in designing fiscal and institutional reforms in order to increase foreign investment in the economy,

Four Generations of Mining Codes in Africa

A country's mining code refers to a subset of laws that regulate exploration and production of minerals, specifying rights and obligations of the private company (applicable taxes, freedom to repatriate funds, access to foreign currency, etc.), interests and obligations of the state (Gajigo, Mutambatsere and Ndiaye, 2012:18). The mining code of a country is a shorthand expression of the regulatory framework of

the sector. An appropriate mining code includes its clarity and stability, with minimal ministerial discretion, and coordination with other legislation (Campbell, 2010:202).

Throughout the 1980s to 1990s, Africa's regulatory codes in the mining sector witnessed three "generations" of liberalization in the regulatory frameworks (Campbell 2004; 2009). Between early 2000 to date, a fourth generation of mining code and natural resources governance practices in Africa has emerged. Although less clear compared to the other three generations, this new mining code is receiving a penetrating attention because of its primary emphasis on transparency and accountability by both mining companies and host governments (Besada and Martin, 2013), as well as international financial institutions and international civil society organizations.

First generation of mining codes

The first generation of mining codes in Africa is traced to the liberalization that occurred in Ghana in the mid 1980s following the substantial pressure applied to the country to amend its Investment Promotion Act, to allow for greater foreign investment in the mining sector (Akabzaa, 2004). The liberalized environment in Ghana in 1986 is instructive in that it immediately resulted in a mining boom, with unprecedented foreign investment in the mining sector. Foreign mining firms from the United States of America, Canada, Australia, Britain and South Africa took over underperforming state-owned mining operations and opened new projects (Opoku-Dapaah and Boko, 2010).

This first generation of mining codes was mainly designed to create a climate of stability and predictability in order to attract foreign investors. Ghana's liberal policies at this period, it is argued, were only surpassed by those of Papua and Guinea (Cambell, 2004). In order to attract foreign capital, mining codes granted a number of incentives to foreign investors for doing business in Ghana, such as the ability to repatriate their profits, exemption from paying duties on imported equipment, and total ownership of business ventures in the country.

Indeed, these pro-investment policies, in addition to the recovery in global demand for primary commodities, as well as direct efforts by the Ghanaian government to attract and support joint ventures with foreign firms (for example, by creating the Ministry for

Private Sector Development to play a facilitating role between the government and Ministry), led to a tremendous boost in foreign investment. Since the late 1980s, the three largest mining companies in the country- Newmont, Golden Star and AngloGold - invested over $3 billion in mining operations (Opoku-Dapaah and Boko, 2010).

The first generation of mining codes in Africa, epitomized by Ghana in the 1980s, provides an example of the initial return from a model of State intervention to the traditional model of mineral tenure, which it was suggested was necessary to attract foreign investment. Despite its acclaimed ability to attract foreign investment, the real benefits of the first generation of mining codes to Ghana continue to be a source of dispute. Campbell (2003:15) argued that these codes did not provide any real benefits to the local economy and population ‘because of the sector’s limited capacity to generate local employment’. On its part, the African Union accused the reforms of been ‘narrow minded’ and skewed ‘towards attracting foreign investment and promoting exports and less towards fostering local development’ (AU, 2009:15). Apart from externalizing the fiscal incentives, critics argue that the liberal reforms in the mining sector discouraged value-added processing, encouraged capital flight and reduced the capacity of the state to manage resources to meet development goals (Campbell, 2003:9). Above all, the special incentives given to mining firms, robbed the local states of funds that would have been invested in social and development programs.

Second generation of mining codes

The second generation of mining codes in Africa emerged in the early and mid-1990s. These codes, exemplified by Guinea, continued with the liberalization and privatization agenda of the Bretton Wood institutions, but to an extent also introduced environmental issues and social impacts in mineral governance. Non-state actors were mandated to provide regulation in achieving the social and environmental benefits for the sector. A clear example of this trend is seen in Article 16 of Guinean Mining Code, where the protection of the environment is the exclusive responsibility of the mining companies. However, one cannot fail to see that the role of the local states in re-regulating the sector was not defined. By assuming that ‘private firms acting in the pressure of free markets where in a better position to provide sustainable outcomes, the capacity to enforce environmental and social norms or labor

standards'(Campbell, 2003:10) from the local state was whisked away. By leaving the regulation of the mining sector in private hands, the mining code in Guinea ended up creating an oligopoly, with an economic growth that endangered natural resources endowments, increased poverty, and consequently compromised more sustainable patterns of social and economic development (Campbell, 2003).

Third generation of mining codes

The third generation of mining codes, introduced from the end of the 1990s, recognized the important role of the state in facilitation and regulation. Mali, Madagascar, and Tanzania are representative of this process of "re-regulation".

In the case of Mali, its 1999 mining code, modeled after that of Ghana, was "designed to attract foreign investment through various incentives to foreign mining companies and make Mali "one of the major poles of the African gold trade" (Hatcher, 2004:43). It was also envisaged that Mali's mining code will increase the contribution of mineral production to the country's GDP, despite the fact that the new mining policy had introduced tax exemptions for mining companies.

A similar trend is noticeable in the case of Madagascar, whose new mining code was intended to "accelerate the process of state disengagement from commercial exploration, production, and marketing operations," at the same time promote greater private sector investment in the natural resources sector and increase the sector's contribution to national economic growth (Sarrasin, 2004:61). Although Madagascar's mining code contained new legislation to ensure environmental protection, the capacity of the government institutions to enforce the regulation was questionable. The case of Mali arguably shows the change in the status of the local states as that of 'owner/operator' of mining interest to that of a "regulator/administrator, resulting to massive privatization that took place during this period.

Tanzanian mining codes, introduced in 1998, provide the last example of the third generation of mining regulation in Africa. These new mining codes were a direct response from the World Bank's imposed preconditions for debt relief (Campbell, 2004). The reforms were mainly intended to open the door to private capital in the mining sector and to adopt modern practices and the investment in cutting edge

technology in the mineral industry. In order to achieve a “strong, vibrant, well-organized private sector” (WTO, 2000:55), Tanzania implemented measures to attract foreign investors, such as allowing 100 percent foreign ownership, 5-year tax holidays, 100 percent transferability of profits, 100 percent depreciation allowances and exemptions from a wide range of taxes, guarantees against nationalization and expropriation; and offered unrestricted repatriation of profits and capital. Apart from these, the revised mining code offered a low royalty rate of 3 percent as well as other incentives such as import duties waiver on mining equipment and tax exemptions (Africa In Depth, 2013). Apart from being externally influenced by the World Bank, the 1998 Mining Act of Tanzania did not promote the development objectives as enunciated in the policy paper.

Fourth generation of mining codes

The fourth generation of mining codes in Africa is associated with the new wave of natural resource governance initiatives, which aim at remedying the structural and legal deficiencies of the past three generations of mining codes. Besada and Martin (2013), also citing Howell and Pearce (2001), remark that these new forms of private and transnational governance have emerged to promote a ‘socially responsible capitalism’ wherein markets and states work together with civil society, in order to address the perceived weak capacity of the local states to effectively govern natural resource exploitation. The emergence of this generation of natural resource governance codes is located in debates over corporate social responsibility. Apart from demanding transparency and accountability from both the host government and investors, the fourth generation is also considered an alternative to national regulations, in ameliorating global environmental and social problems by encouraging responsibility and compliance with good governance norms among global private actors (Bernstein and Cashore, 2007). This new governance framework places emphasis on transparency and accountability, directed towards not only the host governments but also investing partners and private companies (Besada and Martin, 2013). It is also considered an alternative to national regulations, in ameliorating global environmental and social problems by encouraging responsibility and compliance with good governance norms among global private actors (Bernstein and Cashore, 2007).

Unlike other generations of resource governance codes, African countries are at the forefront in the institutionalization of these initiatives. In 2009, African Heads of State adopted the Africa Mining Vision at the African Union (AU) summit. The vision advocates for “transparent, equitable and optimal exploitation of mineral resources to underpin broad-based sustainable growth and socio-economic development” (AU, 2009:2). What makes this vision distinct with the earlier generation of mining codes in Africa is first, because it represents a self-conscious effort on the part of African political leaders to find a “common voice” with which to negotiate access to the continent’s natural resource wealth. Second, it is a fundamental departure from the model of economic development underpinning the first three generations of mining code liberalization, as it advocates for a strong, interventionist and developmental state.

According to critics, the new wave of natural resource governance, especially its emphasis on the voluntary commitments of mining companies is misleading. It is argued that mining companies are ‘blue washing’ or even window dressing their operations, signing on to non-binding international compacts in order to give a positive public image to unsound practices (Nwete, 2007: 313). Many critics have noted that instruments like the Extractive Industries Transparency Initiative (EITI), are ‘rather meaningless, distracting box-ticking exercise- in effect little more than a reputational tool for companies, governments and donor agencies (Shaxson, 2009:5). Campbell (2010:214) argues that these voluntary codes and performance standards also complicate questions of legal responsibility and legitimacy, with many regulatory functions transferred to either the transnational legal arena or to contractual agreements between companies and specific communities.

Implications for the growing Change in Africa’s Mining Codes

The activist, interventionist state is making a comeback in the developing world, making analysts to question whether the era of the Washington Consensus is over. In the developing countries, this is particularly visible in the extractive and mining sectors, where the activities of the local state in economic governance has gone far beyond what has considered normal and appropriate in recent years.

Specifically in the context of mineral resource governance in Africa, mining codes have been updated since the 1980s, whereby local states, mostly encouraged by the twin Bretton Woods institutions, have tried to craft mining codes that are attractive to foreign investors. This involves a shift away from the state-led mining enterprises and comprises a fundamental aspect of liberalism and neo-liberalism. To a certain extent, the changes have been successful in attracting foreign investment. The process of liberalization and privatization, which continued after the 1990s, has largely diminished the role of the state, either resulting to its 'selective silence' (Campbell, 2010:8) or even to its retraction. African experience in the extractive and mining sector has since been characterized as a "cumulative process of reform leading to several generations of increasingly liberalized mining regimes" (Campbell, 2008:369). However, after the first three generations of liberalizations, the ability of the mining sector to contribute to Africa's sustainable development is questionable. The capacity of mineral-rich states to implement development goals reveals the very real limits that these regulatory reforms can achieve. At this stage of the process, therefore, the fourth generation of mining codes, involving a strong-interventionist state is been promoted, as an alternative to the Washington Consensus.

One of the most important political debates about reforming Africa's mining codes since the late 1990s has been over the basic assumption that should underpin the exercise of power by the local state, namely, 'the choice of development strategies, the forms of participation in that process, and the resulting distribution of responsibilities and power, particularly between public and private actors' (Campbell, 2010:199). The debate has intensified about too little benefits from mineral wealth and about a necessary greater contribution of the mining sector to economic transformation (Küblböck, 2013:1). The mining industry in Africa has weak links with the rest of the national economy. Foreign companies who own and operate the mines export the minerals in raw form and import the largest part of its inputs from abroad (UNECA/AU 2011). While from a corporate perspective, the liberal reforms are commendable, from a host country perspective, the contribution of FDI in the mining sector to public revenues, local employment and diversification has often been disappointing (Campbell, 2010). The World Bank's admission that over the last 40 years, developing countries without major natural resources have grown two to three times faster than those with high resource endowments (UN Interagency Framework

Team 2012) is instructive in this regard. While this trend has been inversed in recent years due to the increase in investment in natural resources which has led to higher growth rates, Küblböck (2013), admits that this 'has so far not been translated into corresponding job creation'.

Looking at the developments in the mining industry in Africa in recent years, it is apparent that the 1980s and 1990s mineral policies reforms focusing on the withdrawal of the state from productive activities and attempts to attract foreign direct investment to the extractive and mining sector did not allow local states to benefit from their mineral wealth. Since early 2000s, several developments have led to a conscious effort from African states to benefit from this sector.

First, the global surge in demand for commodities, increasing competition and rising prices remain a key impetus shaping natural resource investment and governance in Africa. The resource boom which took off in 2003 with dramatic increase in commodity prices intensified the debate on countries benefitting too little from their mineral wealth. From 1997 to 2002, global prices of mineral resources witnessed a brief downturn. However, beginning from 2003, the prices entered a period of rapid growth from increased demand by emerging economies such as China (Prichard, 2009). The rise in prices of minerals correspondingly led to a growth in global investment in exploration in the minerals sector, from $1.9 billion in 2002 to $7.5 billion in 2006 (Metals Economics Group, 2007).

The surge in global prices of minerals resources and global investment in exploration in the minerals sector has led African countries to 'adopt measures aimed at using their resource base for broader economic development and at reaping higher income from raw material exploitation' (Küblböck, 2013:2). For example, the new Guinean mining code, although intended to woo investors, retains a controversial clause that gives the state a free 15 percent in mining projects, intended to increase the amount of processing, refining and smelting done in the country and to cut back the amount of raw material simply shipped out. As remarked by the Guinean minister of mines, "… if the operation is just about removing ore, the government demands 15 percent. If, for example, bauxite is turned into alumina, the holding drops to 7.5 percent. We want to encourage integrated production… If companies go all the way up the chain and

produce aluminum, the state's free stake could be as little as 2 percent…The idea is to penalize those who remove the raw product and simply export it" (Fofana, 2013). Clearly, African countries are beginning to favor a process of beneficiation.

Second, the involvement of new actors such as the BRICS in Africa's mining sector has varied implications for natural resource governance in Africa. This implication is two-edged. The first is the potential benefit accruable from the increased competition for mineral resource access. Prichard (2009) claims that the entry of BRICS in Africa's mining industry can increase the negotiating power available to host governments seeking to maximize local revenues, and in some cases, leading to developing country's enterprises outbidding historically dominant Western firms. China's relationship with Angola, Nigeria and Congo is illustrative of this claim. However, on the negative side, Bersada and Martins (2013) remark that 'land grabs', poor labor conditions, and a lack of accountability in government budgets have provoked tensions between civil society groups, African governments, and foreign investors'. They cite the criticism from the Zambian government over the poor labor standards of China's copper mining operations that led to the death of several dozen workers in 2007.

Third, the growing role of norm entrepreneurs in natural resource governance has implications for how local states in Africa can benefit from mineral resources. Norms refer to shared understandings of appropriate behavior for actors with a given identity which isolates a single strand of behavior (Jepperson, Wendt and Katzenstein, 1996:52). Norm entrepreneurs 'call attention to issues or even create issues by using language that names, interprets, and dramatizes them' (Nadelmann, 1990:479-84). Norms have emerged in the extractive and mining sector in Africa in response to weak state regulatory authority. Although a soft law, such norm generating mechanisms have the potential to ameliorate the environmental and social problems by encouraging responsibility and compliance with good governance norms among global private actors (Bernstein and Cashore 2007). Even though such codes are voluntary, many incorporate accountability mechanisms and are, to an extent, compelling on corporations (Bersada and Martins, 2013). Moreover, the international recognition of these principles in the mining sector and their adoption in domestic legislation, is a plus for mineral governance in Africa.

Fourth, the collective resolve among African countries to utilize the mineral sector as a springboard to sustainable development, - demonstrated through the African Mining Vision - holds enormous potential for resource governance on the continent. African countries have come to the realization - especially through the experiences of the Nordic countries - that resource-based development and industrialization is only feasible if there are favorable external and internal factors such as natural resources endowments and proactive and deliberate actions from key stakeholders, particularly governments. The vision therefore proposes a new model of extractive resource exploitation that 'borders on inclusive development, economic diversification and industrialization through the creation of linkages, skills and technological development and mutually beneficial partnerships between stakeholders' (Küblböck, 2013:1).

Finally, many post-conflict states in Africa are beginning to be more assertive in negotiating for foreign investment, royalties, higher rates of taxes, partial ownership, or regulating requirements for local employment, sourcing and benefit (Prichard 2009). African states are becoming more nationalistic in the protection of their resources. With the recent backing from the BRICS states, they are beginning to acquire a space for maneuver that was hitherto not available for them in the extractives industry. As the Guinean Minister of Mines remarked, "If by defending the interests of the country people think we are being protectionist, well then I agree; now I plan to clean up the mining sector and will conduct a review to remove unconscionable provisions in certain contracts and ensure we have balance and fairness" (Fofana, 2011). Moreover, democratic reforms on the continent are slowly but inevitably making governments to be accountable to their electorates. Electorates have began to look at natural resource development as an important election issue, requiring those seeking elective positions to indicate how they intend to manage natural resources to favor more rent for the local state.

Conclusion

It is widely accepted that African countries have not benefitted fully from the historic exploration of natural resources on the continent. The liberalisation of the mining sector in Africa, beginning from the 1980s, is noted to have favored foreign companies

at the expense of the local state. It is also argued that this process entailed the increasing delegation of public functions to private enterprises. The effect has been a state with low level of productive forces, lacking the capacity to mediate in socio-economic relations. After more than two decades of implementing these reforms, African countries have woken up to the realization that these reforms have rather narrowed the necessary policy space for maneuver. Emphasis has now been placed on the review of outdated legislation, reviewing inequitable contracts, and ensuring that the role of the state in management of resources is enlarged. It would appear, as the statist orientation argues in favor of a strong state, that the interventionist state is playing an increasing mediating role in shaping the impact of mineral resource governance in Africa. However, in constrast to the arguments of the dependency perspective, African states are also trying to balance their local control of the mineral sector and the attraction of foreign investment. Here, the fourth generation' of mining codes are likely to offer them a space to remedy the structural and legal weaknesses of its mining codes and maximize their benefits from the extractive resources. However, the strong role of the state in regulating the sector in particular, and mineral resource governance in general is a clear signal to the erosion of the era of Washington Consensus.

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