2022 - ISSUE 83 www.ifaaza.org

NEW AGENDA

Special Issue

African Resource Sovereignty:

Development or Environmental Vandalism?

Early Post-Independence Lessons for Natural Resource Sovereignty
Towards Social, Economic and Environmental Justice
Structural Transformation, the Agrarian-Mining nexus and Energy Sovereignty
Resource Nationalism and Sovereignty: Beautiful contested vision(s)

This special issue of New Agenda is generously funded by Open Society Foundation-South Africa.

OPEN SOCIETY FOUNDATION FOR SOUTH AFRICA

New Agenda partnered with Regions Refocus, HakiMadini (Tanzania), WoMin African Alliance, Centre for Social Impact Studies (CeSIS-Ghana), Mining Affected Communities United in Action (MACUA-South Africa), Women Affected by Mining United in Action (WAMUA-South Africa) and the National Association of Artisanal Miners (South Africa).

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MINING AFFECTED COMMUNITIES UNITED IN ACTION
MACUA
NOTHING ABOUT US WITHOUT US

WOMEN AFFECTED BY MINING UNITED IN ACTION
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NOTHING ABOUT US WITHOUT US

NATIONAL ASSOCIATION OF ARTISINAL MINERS
NAAM
WORKING TO RECLAIM OUR DIGNITY

NEW AGENDA

SOUTH AFRICAN JOURNAL OF SOCIAL AND ECONOMIC POLICY

New Agenda is a publication of the **Institute for African Alternatives (IFAA)**

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Layout: Capitil Press

Sponsored by the Open Society Foundation.

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***New Agenda* is accredited with the Department of Higher Education and Training.**

ISSN: 1607-2820

IFAA thanks Khubu Zulu for her artwork and Sankara Gibbs for the cover design.

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EDITORIAL

In a continent that is already reeling from the impact of a global pandemic and climate crisis, the question of how Africa can overcome its location in the periphery of the global economy and assert its control over its resources may appear to be misguided. The continued need for the use of natural resources in process of a just transition, as South Africa's energy transition highlights, and due to an immense infrastructure deficit on the continent asserts the continued importance of grappling with this challenge. Due to a combination of green extractivism and the unmet developmental priorities from within economies and societies in Africa, we need to also grapple with how to center Africa's priorities, and what to do with our land and natural resources. This is also part of what makes us fully human to prevail over neocolonial conditions that we live within and redefine our relationship with nature on our terms. Nonetheless, one of the perennial obstacles of development in Africa is the fact that the conditions within which our diverse economies operate are dominated by by external interests.

The question of how to strengthen the productive capacity of Africa's economies in these conditions has been a persistent one. How can we advance the right to develop and exercise sovereignty over resources in Africa and not rely on a strategy of offering cheap wage labour and our minerals to foreign investors? This strategy also risks increasing environmental degradation in the context of the current climate crisis. This question has taken on greater urgency in an era in which the concept of 'green mining' or 'green extractivism'- that refers to intensive resource extraction viewed as compatible and necessary for mitigating the impact of climate change[1]- has taken off, fuelling an expansion of mining operations on the continent and across the globe.

This Special Issue of New Agenda takes on these vexing questions and more. In the first section of the edition, *Early Post-independence Lessons for Natural Resource Sovereignty,* we undertake an exercise of Sankofa by reflecting on the past and learning lessons from the present. Although our attention in this issue has been on mineral resources, we take a more comprehensive view by including water, land, labour and food. Sovereignty here means asserting control over African social and economic relations and also our relations with nature in a manner that centres the class interests of workers and peasants, especially women. This section features pieces from Post-Colonialisms Today, a research and advocacy project recovering insights from the immediate post-independence period in Africa, and mobilizing them through a feminist lens to address contemporary challenges. It is a collective undertaking directed by a working group and advisory group of African activist-intellectuals, with Regions Refocus serving as Secretariat.

This section features *The Limits of Resource Nationalism in the Post-Colonialisms Today, and A History of Resource Plunder* by Tetteh Hormeku-Ajei and Camden Goetz. Yao Graham in *Reflections on the Fragmented Terrain of Mineral Governance in Africa* focuses on more contemporary challenges of regulating the minerals sector in Africa in the era of neoliberal globalisation. In *The African Mining Vision: Prospects and Challenges*, Treasure Maphanga draws on her direct experience of the adoption of the African Mining Vision (AMV), the minerals development strategy of the African Union that seeks to strategically focus on building economic and social linkages to benefit the continent. These articles bring into sharp focus the need for grappling with possibilities and limitations arising out of the past and more contemporary policymaking processes, frameworks and institutions. This lays out a new pathway to think through what African Resource Sovereignty can mean today.

The section concludes with an article titled the Political Economy of Extractivism and Land Rights, written by Hibist Kassa who draws attention to how the extractivist orientation of economies in Africa as exporters of raw materials on the basis of cheap wage labour has been imposed and entrenched through the process of colonialism and apartheid (in the Southern African context). The article argues that to reverse these relations requires reorienting productive capacities. As part of this effort, Kassa calls for an expanded understanding of the economy which includes smallholder producers, gendered labour relations and social reproduction. This breaks from a focus on the public sector and industrial working class which does not enable analysis of the diversified nature of our economies.

The second section of this edition deals with *Social, Economic and Environmental Justice* by drawing on an analysis the extractivist nature of our economies. The next contribution by Hibist Kassa and Rachael Nyirongo draws into focus the question of corporate accountability for human rights and environmental violations. The ongoing negotiations for a Global Binding Treaty has opened the possibility for directly taking punitive action against corporations for violations committed in countries where they operate. However, even as civil society organisations across the world have mobilised to ensure this is implemented robustly it has also come up against attempts to dilute this process. This sets the context of an IFAA research project on documenting AngloGold Ashanti's human rights and environmental record in South Africa (North-West and Gauteng), Ghana (Obuasi) and Tanzania (Geita).

In the article titled *Women and Artisanal and Small-Scale Mining (ASM)* Hibist Kassa draws on analysis of Burkina Faso, Democratic Republic of Congo and South Africa. This highlights some key issues captured in a forthcoming report to be published by WoMin African Alliance. Here, Kassa traces how the rise of large-scale mining has had a disruptive effect on ASM while simultaneously cheapening and displacing women's labour by marginalising the interests and needs of smallholder producers. A proposal is made to rethink an approach to structural industrial transformation that does not rely on the privatisation of natural resources. Instead, Kassa insists that we can build on the commons, in a manner that ensures artisanal miners and smallholder farmers can be integrated into downstream linkages. Other articles focus on Tanzania's mineral tax reforms and gaps in environmental regulation and provide crucial insights into a case that has been controversial and raised crucial debates on resource nationalism in Africa. Rachael Nyirongo writing about mining tax reforms in Tanzania provides a sobering analysis on the positive dimensions of tax reforms that have been introduced more recently to support ASM, while Esther Somi highlights glaring gaps and slippages in the regulatory capacity of the state to hold itself to account for graft and corporates to account for environmental damages.

This issue also has incorporated perspectives of researchers and activists who work in communities affected by mining to analyse the impact of these operations from the vantage point of those experiencing it. In the *Return of AngloGold Ashanti: Will Obuasi Rise Again?*, Richard Ellimah, writing from Ghana, takes readers to a mining town in the middle belt of Ghana with over a century history of mining. The recent closure of the Obuasi operations had a dramatic impact on the mining communities, creating a state of despair. As AngloGold Ashanti resumed operations, a semblance of hope returned. Yet Ellimah also presents a sobering analysis of what can be done to prevent Obuasi becoming a ghost town once more when the gold reserves become unprofitable to mine. Similarly, Papiki Shawn Lethoko, shared with *New Agenda*, his reflections on the history of Margaret Village, a historically black village, built by mining corporations for its black mine workers, and which has become desolate after mining operations ceased. The struggle of Margaret Village and its neighbouring Khuma township to hold AngloGold Ashanti to account provides an inspiring example of what can be achieved once communities affected by mining are armed with information and legal support, but it also highlights the limitations. The vacuum left by the state due to its weakened regulatory capacity and bias towards extractive industries needs to also be addressed.

The third section on the *Agrarian Mining Nexus and Energy Sovereignty*, also comprises articles that examine other dimensions of natural resources. Steven Mberi, Freedom Mzawi and Walter Chambati in *Exploring linkages between Extractives, Agriculture and Land in Zimbabwe* maintain that although mining has had a disruptive impact, it can still play a more positive role through building linkages between agriculture, mining and manufacturing. The next piece titled ***Grassroots*** *Women and Energy Sovereignty*, grapples conceptually with the concept of energy sovereignty as an alternative to corporate controlled energy systems. Melania Chiponda draws on insights from her PhD dissertation on electrification in Zimbabwe. Chiponda elaborates on the concept of energy sovereignty from below, as an alternative to corporate driven alternatives and draws attention to the importance of socially owned and renewable energy systems.

This section concludes with two informative pieces that elaborate on the historical context of the Blue Nile/Abay river conflict. Mekdelawit Messay Deribe in *The 1959 Agreement "For the Full Utilization of The Nile Waters": The Crux of The Problem In The Nile Basin Water Use Dilemma* draws attention to the historical roots of the Nile water conflict. She concludes that numerical sharing is not the approach to resolving the crisis, but instead a regional strategy for resource sharing is needed. The section concludes with Stephen Max Donkor in *Reclaiming the Shared Vision of The Nile Basin Starting with The Great Ethiopian Renaissance Dam (GERD)*. He breaks down contemporary conflict resolution processes and also makes the case for a regional water sharing strategy. This draws attention to an important continental challenge of the competing interests rooted in colonial 'divide and rule' strategies that undermine regional strategies to develop our resources for own social and economic progress.

New Agenda features two interviews in the Section on *Resource Sovereignty: Beautiful Contested Vision(s)* in Issue 83. The interview with Nonhle Mbuthuma Spokesperson of the Amadiba Crisis Committee (ACC) in Xolobeni in the Eastern Cape. Nonhle explains how the ACC has been struggling against the coercive imposition of extractive projects on their ancestral lands. She explains the history of Pondoland revolt, the violence of dispossession and its link with gender-based violence and importance of Free Prior and Informed Consent. Mbuthuma also discusses the continued assassination of activists after the formal end of apartheid as well as the challenges facing the left and trade unions in South Africa. Finally, she assesses alternatives such as food and energy sovereignty and the industrial commons.

The interview with Bruce Baigrie, formerly part of the IFAA research team, on his work on energy. Bruce shares his thinking on energy sovereignty from the viewpoint of the state in the South African context. He discusses the place of nuclear energy in the energy mix of South Africa, the threat posed by privatisation and the opportunities to reform ESKOM and advance renewable energy in the country. He concludes with his thoughts on green industrialisation and offers a critique of the calls for 'degrowth' in the Global North and South.

The final section of this issue pulls together a review of books on *Extractive Industry Law in Africa and the People's Green New Deal*. Brian Kamanzi's review of the People's Green New Deal charts the more complex terrain that the left from a Global South perspective has to take in countering Green alternatives rooted in corporate dominated and 'for profit' solutions. Grappling with the specificities of what faces settler colonies like South Africa is also considered. Rachael Nyirongo's review of Extractives Industries Law in Africa enables reflection on the legal, fiscal and institutional frameworks on a contintental level. Although New Agenda acknowledges the bias of governments towards corporate interests, the review enables us to also recognise shifts to integrate human rights concerns.

Reviews of albums of radical artists, such as the award winning 'Dialectic Soul' reviewed by Phethani Madzivhandila and 'AlterNatives: reviewed by David Coplan both evoke decolonial practice and thought and offer reflections across generations on the work of radical cultural workers on the Cape Town/South Africa music scene. Each of these differently positioned mediums alongside the cover art by Khubu Zulu, offer reflections into varied viewpoints conditions of exploitation and oppression facing Africans and especially with the existential threat posed by Climate catastrophe from a Global South perspective. Altogether, these provide us with wide-ranging reflections on what has been five centuries of trauma, struggle and continued attempts to rethink, redefine and reimagine and prevail over interests that attempt to undermine self-reliance and autonomy of Africa.

This Special Issue concludes with prose poetry by Qondiswa James. In *Land and Landless*, we are guided to view the planet as it hurls through space and to the everyday blood and sweat of the exploited who generate the wealth from which they are excluded, alongside swathes of surplus labour, amongst whom women continue to hold communities together in the everyday struggle for survival. The greed of the profit driven system out of which corporate giants have captured the State and dominated society is brought into full view. Understanding the logic of extractivism in the African region, and ultimately building strategic linkages between its malcontents is what this Special issue ultimately seeks to articulate.

It is New Agenda's view that the commons and our relationship to nature is one that cannot be reduced to cold analysis of capital and profits. We dare to prevail with the aim of advancing interests that centre the needs and priorities of smallholders and workers, whilst also grappling with the inevitable problems that will arise in any step towards structural change. Being grounded in a process that respects and practices Free Prior and Informed Consent is crucial. However, building consensus around any change that will transform a way of life is trying to say the least. Nonetheless, in the conditions of corporate led neoliberal globalisation, it is absolutely necessary to ensure that wide-ranging and diverse interests of communities affected by mining, including the Right to say No, are respected. What remains to be addressed in prevailing discourses is what we are saying Yes to?

The first on the agenda has to be finding a balance between structural ecological and economic transformation that centres workers and smallholder interests. What the articles in this Special Issue draw our attention to are the many challenges that arise in this process. While it is important to hold corporates accountable especially where there is a prevailing practice of voluntary commitments, there is also a need to have processes that guide how Africans can utilise our own natural resources to develop in ways that do not repeat the combined violence of unequal exchange, exploitation and environmental degradation. This is not an easy direction to take but it is a necessary challenge.

Other matters of concern include interventions to address illicit and licit financial flows can complement this process, especially in the context of climate crisis. There is also an urgent need to recenter indigenous knowledge systems as part of a process of understanding our diverse economies and breaking away from extractivism. Additionally, there is a need to develop regional resource sharing development strategies, as highlighted by Mekdelawit Messay Deribe and Stephen Max Donkor in the case of the GERD to orient towards building the productive capacity of economies in Africa, while also retaining a balance with environmental and human rights protection. This Special Issue offers some responses to these matters. For example a regional accountability mechanism that not only engages with existing frameworks like the AMV but also goes beyond their remit by actually focusing on strengthening the capacity of the state to effectively regulate the sector and provide extension services to smallholder producers is a promising avenue to explore. This has to be complimented with integrating more explicitly regional natural resource development strategies for more holistic and beneficial projects that focus on environmentally sustainable practices that centre smallholder producers and protect workers rights, whilst also investing significantly in social infrastructure and systems that retain value on the continent under the principles of equity and sharing. These are the kind of interventions will take us closer to asserting our self-reliance and autonomy through African Resource Sovereignty.

REFERENCES

1 Macmillen Voskoboynik D, Andreucci D. Greening extractivism: Environmental discourses and resource gover¬nance in the 'Lithium Triangle'. Nature and Space, April 2021; 1-22. https://doi.org/10.1177/25148486211006345

Early Post-independence Lessons for Natural Resource Sovereignty

THE LIMITS OF RESOURCE NATIONALISM

This section features pieces from a virtual event on natural resource sovereignty convened by Post-olonialisms Today, a collective research and advocacy reimagining policies from early post-independence Africa for today. It is led by a working group and advisory group of African activist-intellectuals, with Regions Refocus serving as Secretariat.

In 2017, a group of African activist-intellectuals launched Post-Colonialisms Today (PCT), an effort to recover policies from early post-independence Africa to address contemporary development challenges. In contrast to the current neoliberal orthodoxy, policies from the governments of leaders like Kwame Nkrumah, Julius Nyerere, and Gamal Abdel Nasser were oriented towards securing the continent's political and economic agency. A key aspect of this agenda was securing sovereignty over their natural resources to ensure the distribution of the benefits to their citizens rather than, as it was under colonialism and is again under neoliberalism, to the enrichment of the Global North.

In PCT's virtual event on natural resource sovereignty, from which the pieces by Yao Graham, Tetteh Hormeku-Ajei, Camden Goetz, and Treasure Maphanga are constituted, project-member Akua Britwum highlighted that the basis of countries like Ghana and Tanzania's development plans was for the state to control its natural resources and utilise revenue to the benefit of other sectors for industrialization and social development. As such, natural resource policy was accompanied by investment in health and education, and states also moderated the interests of different classes, shifting from a predatory extractivist model to one that dealt with mining rights, worker rights, wage inequalities, and working conditions.

Britwum also noted that while sovereignty was conceptualised more expansively in the early post-independence period to include things like control over natural resources, not all groups had equal access to the state or had their needs and interests equally represented. What was understood then as natural resource sovereignty was also limited in scope as the intent was to improve the conditions in which profits were extracted by foreign direct investors, rather than imagine an alternative that would address the gap between profit and revenue share or tax foreign investors. Therefore, the attempt to break the hold of foreign direct investment had its own limitations.

With the onset of structural adjustment around two decades post-independence, the World Bank implored African governments to give up any pretensions of using minerals to serve national or social priorities and instead focus on maximising revenue by handing over management and ownership to transnational companies. To attract foreign direct investors, countries had to reverse their policies by lowering taxation and royalties and giving concessions and incentives.

Today, resource sovereignty in Africa is severely under threat, with the majority of investment in economies on the continent coming from foreign capital. Rather than developing countries, structural adjustment has directly de-developed them by cutting social services, cutting subsidies, devaluing currencies, reducing real wages, and raising taxes. They have also meant increasing dependency on external sources for food, and a return to primary commodity export dependence.

As Post-Colonialisms Today researcher Chafik Ben-Rouine elaborated, in this context, most countries in the Global South do not have the policy space to determine their own priorities because they have to take external loans that in turn enable external interests to shape their agendas. How can these countries maximise their revenue before turning to external finance? And how can they use it for transformative programs and solutions, and ensure it is reallocated to sectors necessary for long term development?

A HISTORY OF RESOURCE PLUNDER

By Tetteh Hormeku-Ajei and Camden Goetz

Tetteh Hormeku-Ajei is the Head of Programmes at the Third World Network-Africa and a member of the Working Group of Post-Colonialisms Today. Camden Goetz is the Coordinator at Regions Refocus, the Secretariat for Post-Colonialisms Today.

The struggle for control over Africa's natural resources has raged since the colonization of the continent. It continues today as the forces that undermine Africa shift from the former colonizers to transnational corporations, and the ideology that underpins the global economic order morphs from blunt "flag" colonialism to the hegemony of neoliberalism. The effect is still the same: the underdevelopment of African economies and undermining of state capacity to meet peoples' needs. The following unpacks the roots of this persisting problem and offers some lessons from the early post-independence era, when governments across Africa recognized these issues clearly and enacted revolutionary policies to confront them.

Prior to colonialism, the countries of Africa were economically, politically, and sociologically structured organically around their internal needs and demands, meeting internal material and social challenges. This is not to say these societies were devoid of internal contradictions, conflicts between them, or engagement with the wider world––indeed, trade routes certainly extended beyond the continent. But on the whole, the economic structures and relationships that developed were shaped by dynamics and demands within African societies.

This was forcefully upended with the onset of colonialism, as African economies were extroverted, destroyed, and fragmented. A new structure was put in place in which African economies were inserted in the global economic order as providers of raw materials for the development of other countries––basically for imperial Europe. This has relegated the vast majority of the continent to a political economy structure of primary commodity export dependence.

Within this structure, African countries became dependent on the export of a small basket of barely processed minerals, timber, and agricultural products (cocoa, coffee, bananas, etc.) as raw materials to feed the industries of the Global North. In return, Africa became dependent for their consumption needs on the import of the goods manufactured in the North, most often made using African raw materials.

This enforced "unequal exchange" of unprocessed so-called "low-value" raw materials for "high-value" processed goods has become the basic mechanism of unequal economic relationships between Africa and the advanced industrial capitalist North, and the means of continued appropriation of the wealth created in Africa by the North. This undermines the accumulation of wealth in Africa and its reinvestment for renewing, upgrading, and expanding productive capabilities of the societies on the continent, and therefore of their ability to meet the changing needs of the people. On the contrary, African countries and opportunities for their people have become trapped in the vicissitudes of the global market for their commodities over which they have little control.

The colonial restructuring of Africa's economies and their orientation to the external needs of European industrialization have devastating consequences for the internal dynamics of the economies and the societies, marked by two key features:

First, as products which were before used and processed for an internal economy came to serve merely as unprocessed raw materials for Europe, the internal usage of these products was subverted. Iron, which was processed into agricultural tools and other mechanical tools, was now mined only to be carted out in raw form. Agricultural products which before were processed in wide-ranging forms for food, clothes, shoes, were now only exported in their raw forms. As a result, the chain of processes, skills, and knowledge of these products and their uses through the domestic economy was broken. Instead of being maintained and upgraded over time, the capabilities and capacity have become degraded.

Second, the relationships that existed between different types of economic activity and sectors of the economy were fragmented. The chain of mining, smelting, and crafting iron to supply the technological need of agriculture, such as tools for farmers, was fragmented during the colonial economy. Agricultural supplies to iron crafters were also equally disrupted. This shifted the overall nature of African economies so that these sectors no longer met the needs of and reinforced one another, helped each other grow, or evolved according to African needs.

As different sectors of the economy were no longer speaking to each other, the range of internal exchanges became limited and the overall economy became more shallow and weaker. For instance, farmers who now only sold their products to an external (North) market didn't necessarily have an internal market for their products so that they could also expand their production and opportunities for livelihood. This led to a common belief that African countries have small markets, erroneously attributed to small national populations, and that there is simply nothing that can be done about it. But contrast this with Global North countries such as the Netherlands or Denmark: their populations are smaller than many African countries, but because of the coherence in their economies they are able to have a deeper domestic market which allows for expanded production. Their economies were not fragmented and reoriented in the same way.

Such internal fragmentation and consequent shallowness of the African economy is aggravated by the artificial borders inherited from colonialism. Before colonialism, what now constitutes the national border between Ghana and Togo was a common space of economic interaction among societies. By being forced to operate behind new artificial borders also limits the range of exchange and economic depth.

Historically, the mining sector has been the focal as well as entry point for the construction of the primary commodity export dependent political economy. From South Africa to Zimbabwe to Ghana, colonization was consolidated as a process of European companies, supported by their governments, exercising possession and ownership of Africa's minerals and expropriating the locals. This was replicated as more minerals were discovered in addition to gold, diamond, coal, and oil, and every time a new mineral is demanded by the Global North, this dynamic is asserted anew.

However, primary commodity export dependence is not simply a reduction to the specific mineral or agricultural or other natural resources involved. Rather, it is the totality of relationships and dynamics of the appropriation of wealth, the extroversion of the economic dynamics, and fragmentation of African economies. This allows us to see how these dynamics extend beyond natural resources to other economic sectors, such as tourism, telecommunications, and finance. In tourism, for example, it is widely known that the higher end of the value-chain is dominated by a handful of transnational operators, who then appropriate the overwhelming bulk of the wealth generated, leaving Africans little out of it.

In this neoliberal era, the problem of primary commodity export dependence has been ignored at best and celebrated at worst. Promoted first by neoliberal economists and Global North policy institutions, an insidious narrative has proliferated that African countries should rely on their comparative advantage, recommending that they make better and more efficient use of their export of primary commodities. The power of this narrative has ensured that the transformation of primary commodity export dependence and its attendant problems as outlined above has ceased to be a central aspect of African policy making in the neoliberal period.

Echoing the neoliberal suppression of policies aimed at dismantling primary commodity export dependence, at the onset of neoliberalism the World Bank told African governments to abandon any notion to use mineral resources to serve social priorities or developmental priorities and give up their running and management of minerals and mineral wealth to transnational companies. As the Bank stated:

> The recovery of the mining sector in Africa will require a shift in government objectives towards a primary objective of maximizing tax revenues from mining over the long term, rather than pursuing other economic or political objectives such as control of resources or enhancement of employment. This objective will be best achieved by a new policy emphasis whereby governments focus on industry regulation and promotion and private companies take the lead in operating, managing and owning mineral enterprises.[1]

Paradoxically, even the revenue from the export of primary commodities has been undercut through World Bank-promoted programs of lowering corporate taxes and royalties, and giving many concessions and incentives to transnational mining companies in the name of attracting foreign investment.

Many of the best tools to fight against dependency, such as development planning and import-substitution-industrialization, have either been actively repressed by programs like structural adjustment, or pushed into the margins by the dominance of neoliberal thought and "free market" policymaking practices. These tools were widely deployed by early post-independence governments to assert sovereignty over natural resources, before they were truncated by neoliberalism, which has reasserted extractive colonial dynamics.

In the early post-independence period, after formal decolonization, there was wide recognition from governments, across Africa and across ideologies, that the key task for development was to confront primary commodity dependence and its binding economic constraints. Kwame Nkrumah recognized the problem clearly in stating: "Africa is a paradox which illustrates and highlights neo-colonialism. Her earth is rich, yet the products that come from above and below the soil continue to enrich, not Africans predominantly, but groups and individuals who operate to Africa's impoverishment." This recognition across the continent and the Global South reverberated into mainstream policy institutions established in this era, such as the UN Conference on Trade and

Development Planning or the African Institute for Development Planning. A key lesson from this era is the critical importance of restoring this recognition of the structure of African economies as a starting point for policy and activism.

Early post-independence governments worked to ensure that their economies accumulated for themselves by taking over the commanding heights of the economy strategically. This required asserting sovereignty, and therefore control, over their natural resources. The key mechanism for this was vesting the mineral wealth of their economies in the state. In Ghana, for instance, laws were implemented to declare that the mineral wealth or the wealth under the soil is vested in the Republic of Ghana and, it is the president who has custodianship.

Crucially, this nationalization extended beyond minerals to the mines themselves, even those already constructed. Taxation and royalties were also implemented to fund development and social programs, and the transfer of skills and technology was carefully facilitated.

Early post-independence leaders also saw beyond the hard economics of natural resource sovereignty to recognize its social dimensions. For instance, Kwame Nkrumah bought British mineral mines, which the UK had wanted to close as they did not make any profit. It came as a surprise to many that Nkrumah would purchase unprofitable mines, but his goal was not simple profit, but to create jobs as a social act to expand employment opportunities for the people.

This understanding of the social dimensions of dependency is key for the Post-Colonialisms Today project, as feminist politics is a central pillar. The basic recognition of dependency and its social dimensions, and the need to assert African agency over resources, provides a stronger basis to ensure power and agency for African women. At the same time, post-independence leaders must be critiqued for their patriarchal policies and tendency to sideline African women after independence despite their prominent role in anti-colonial struggles.[2]

The early post-independence era also offers lessons on confronting the fragmentation of African economies. Their approach centered on industrialization: building African capacity to meet Africa's needs rather than rely on the North to import high-value products. The key challenge many governments faced was generating the resources to support industrialization. Profits from exports from producing primary commodities were leveraged to support building factories, establishing institutional mechanisms, and funding social policies. The widespread use of tools such as the taxation of transnational corporations, protective tariffs, and royalties also generated resources.

However, a deeper problem often remained even as important efforts towards transformation were funded and planned: restoring internal linkages to African economies and making different sectors "speak" to each other once again. This challenge is particularly difficult and one many post-independence governments did not tackle sufficiently. As Post-Colonialisms Today researcher Akua Britum details[3], post-independence governments had to explore methods for funding development beyond taxation, such as reinforcing social programs to meet workers' needs without reliance on large cash incomes.

Some countries paid particular attention to restoring these linkages. Post-independence Botswana, for instance, enacted policies to ensure the processing of minerals mined in the country must take place, at least in part, domestically. They also insisted that the procurement of inputs for mining must be sourced in Botswana. This meant that while the economy was temporarily reliant on producing minerals, they could still build up their industrial capacity and promote structural transformation.

There are limitations and layers of complexity to approaches in the post-independence era though: as Post-Colonialisms Today researchers Kareem Megahed and Omar Ghannam point out[4] post-independence land distribution in Egypt from landowning elite to the peasant class was reversed as peasants only received flimsy *usufruct* ownership. Under Kenneth Kaunda, Zambia nationalized their mines but still remained deeply controlled by international mineral value chains, meaning that even though they owned the copper mines outright, transnational copper companies managed to undermine their capacity.

Both the strengths and limitations of early post-independence policies offer a wealth of lessons for today's struggles for control over Africa's resources. Critically, the clarity in that period around the importance of African state control over natural resources offers a path forward for contemporary efforts––it must be wrestled away from transnational corporations today just as it was wrestled from colonial forces. With basic policies such as nationalization being halted outright, as seen recently in Zambia[5], this task remains as urgent as ever.

REFERENCES

1 World Bank, Mining Unit, Industry and Energy Division. Strategy for African Mining. Africa Technical Department Series, 1992. World Bank Technical Paper Number 181. Available at https://documents1.worldbank.org/curated/en/722101468204567891/pdf/multi-page.pdf

2 Britwum A.O, Mama A. Unfinished Liberatory Agendas. Africa Is A Country, 2021. Available at https://africa¬sacountry.com/2020/12/unfinished-liberatory-agendas

3 Britwum A.O, Saadi M.S, The Role of Central Planning Today. Regions Refocus, 2020. Available at https://www.youtube.com/watch?v=FlfQmjClhv0&list=PLs7-YJGUnLLPcBKZzsNIbODQrmmcHWD8&index=14

4 Megahed K, Ghannam O, and Khalil H. The Limits of Egypt's Radical Post-Independence Vision. Regions Re¬focus, 2020. Available at: https://www.youtube.com/watch?v=5HKS6TYbw2Q&list=PLs7-xYJGUnLKYYkyfRK2_GydRCLFZF¬n4x&index=4

5 Lusaka Times. Zambia is done for now with taking over mining companies-Finance Minister. Lusaka Times, February 2021. Available at https://www.lusakatimes.com/2021/02/07/zambia-is-done-for-now-with-taking-over-mining-companies-finance-minister/

REFLECTIONS ON THE AFRICAN MINING VISION: THE FRAGMENTED TERRAIN OF MINERAL GOVERNANCE IN AFRICA

By Yao Graham

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The African Mining Vision (AMV) was adopted at the peak of the commodity boom which meant that the terrain of competition for resources had changed dramatically from the period in which structural adjustment liberalised Africa's mineral economies. The understanding of the World Bank, the International Monetary Fund and bilateral donors at the height of structural adjustment was that Western companies and their economies would be the primary beneficiaries of mineral extraction. Since then, however, new powers, particularly China, have emerged as industrial powerhouses and therefore the competition for African resources has become immense. Even among the North Atlantic powers themselves, there has always been intense competition for control of African resources. The global struggle for African resources therefore involves several key actors: The owners of the resources, Africans, those who had historically benefited from their extraction, as well as new entrants like China. It is crucial to understand this context in order to appreciate the character of the AMV and some of the implementation challenges that it has faced over the years.

Traditionally, the consumer countries of African minerals have wanted certainty, sufficiency and security of supply. At various points in history different things have been done in this regard. Historically, there have been moments of consensus between buyers and sellers because supplying countries also have an incentive to secure economic reliability of their mineral exports. Even though they were dependent on minerals, they wanted to transform their economies and the nature of this dependence while also reaping the benefits of minerals export. Secondly, you find that things swing from contestation to moments of consensus. Let us look through the period before the creation of the AMV.

THE ORIGINS OF THE AMV

In the mid-1980s when mineral prices were exceptionally low and export countries were struggling, the European Union (EU) set up a special financing facility called SYSMIN under the Lomé Agreement to support African Caribbean and Pacific countries with their mineral revenue earnings as a way of keeping the sectors alive. That reflected the EU's interest in continuity of supply. SYSMIN was not wholly successful and also co-existed with a global approach of compensatory financing, which it was not. Structural adjustment went hand in hand with the removal of those instruments at a global level.

The AMV was born as part of a push by exporting countries to gain greater control of their natural resources. The AMV was interested in promoting industrialisation and improving the situation of mining affected communities, as well as improving revenue derived from the export of minerals. The AMV reflected struggles that were taking place on the ground and a shift towards the governance of minerals as part of a new notion of the national interest.

During the mineral boom, communities and workers continued to struggle against the prevailing model of extraction which was a product of structural adjustment. Activist groups questioned the handing over of public resources to transnational corporations. People questioned the amount of revenue brought into the state's coffers from the sale of minerals and challenged the complicity of elites and the corruption which bound together local governments with foreign companies and governments. All these contestations came to have a bearing on mineral governance in a way which reinforced the agenda of the consuming powers, laying the basis for the agenda of the AMV. The AMV was, in other words, a product of political struggle.

Structural adjustment had established a neoliberal regime not simply through the market mechanisms, but also in the realm of ideology. This market-oriented ideology became hegemonic and legitimated the model of extraction advocated by the World Bank, IMF and other international interests. Community groups began to talk about impact of mining in terms of the language of 'corporate social responsibility' and 'accountability. This fed into the emerging neoliberal development model.

The EITI and associated processes meant that a very large group of NGOs became complicit in the stability and perpetuation of the FDI revenue focused development model which the neoliberal agenda represented. Several similar mechanisms also stabilized the model that structural adjustment had created. For example, while the Kimberley Process around conflict diamonds effectively dealt with the conflict aspect of minerals extraction, it also created a mechanism for the diamonds to continue to flow out of the continent without challenging the structural power of foreign companies rooted in their ownership and domination of African mining. Similarly, the Dodd Frank Act (2010) dealt with conflict and corruption. But it did not do so in a manner that addressed the deeper structural issues of the neoliberal development model.

The interventions discussed above ultimately became legitimating discourses, represented in economic and legal architecture. When attempts were made to assert resource sovereignty during the commodity boom period, countries in Africa and elsewhere were met with the accusation of 'resource nationalism'. It was this accusation which gave impetus to the rise of the African Mining Vision. For people in the Global South, resource nationalism is a beautiful thing, it is an assertion of your ownership, an assertion of taking back control of your non-renewable resources. This may cause external and internal conflict because Southern elites definitely have been complicit in ensuring the stability of the neoliberal order.

EFFORTS AT CONTAINMENT

The assertiveness of minerals governance, embodied in the AMV, has led to number of things. Firstly, it has led to an effort of containment on the part of the OECD and North Atlantic powers who perceive it as a threat to their need for sufficiency, reliability, and security. In the case of the European Union, the Raw Material Initiative was rolled out in 2008 to counter the trend towards minerals governance. To quote Mandelson, who was the EU commissioner at the time: "the EU imports 70 to 80 percent of its primary resources'[1], an open global market completely free of all distortions on trade and energy and raw materials is a key goal of the EU's trade policy. [2]

The effort to contain the vision of the AMV was also brought to bear in EU aid policy, in negotiating Economic Partnership Agreements and also in the initiatives that were pushed collectively by the G7 and the WTO. The desire was to ensure export taxes and other mechanisms would be interdicted and stopped within the WTO. This came to be represented in things like the EPAs which outlawed the use of subsidies and various mechanisms that support industrial policy for processing diversification. All the big powers had a critical minerals list. Access to these minerals was seen as a national security issue requiring serious attention. The instruments of mineral governance were thereby attacked as part of a concerted effort of western policy interests. The EU Raw Materials Initiative was the most visible expression of the latter.

The AMV ultimately represented a challenge to the neo liberal agenda that the World Bank had installed in Africa and the Bank's $1 billion map initiative was the most aggressive expression of the need of the global powers to guarantee supply. The World Bank survives both through consultation and co-optation. When criticism of structural adjustment was at its peak, the World Bank suddenly had a new vision: A world without poverty. But this vision shifted away from the Bank's own responsibility of actually having created the poverty in the first place.

The World Bank has now also become an active actor around the resource nationalist agenda in Africa. It took part in the process of the AMV and began to fill into areas where, because of the resource weakness of African countries, there were no initiatives taking place. The African Mining Legislation Atlas Project for example, the geo-mapping, geological information project was an EU-World Bank cooperation to put together a map which would guarantee a certain knowledge of African geological resources in the hands of the big powers.

FRAGMENTING INITIATIVES

After the launch of the AMV, African countries were pushing to renegotiate contracts. In 2014 The G7 meeting in Brussels launched a contract renegotiation initiative to centralise technical support around something called CONNEX. The G7 decided to invest money into CONNEX rather than giving money directly to African governments to implement their own projects. The World Economic Forum also set up something called the Responsible Mineral Development Initiative in 2009.

The rationale behind CONNEX and the Responsible Mineral Development Initiative uses language similar to the rationale evoked for the AMV. However, there are key differences between. First, CONNEX and the Responsible Mineral Development initiative decentred control over the reform agenda from the owners of the resource. Secondly, the AMV was a state society initiative within Africa, driven by African institutions. The Responsible Mineral Development Initiative on the other hand is a voluntary private sector initiative. Similarly, CONNEX was a G7 project which was going to be based in European Institutions.

Superficially, these initiatives appear to be doing the same things. But in reality, they contributed to the fragmentation of the political ownership and decentring of the ownership of the exercise. It meant that the owners and controllers of the agenda would not be African countries. Moreover, the proclivity of African countries to take aid meant that many countries uncritically rushed towards these initiatives.

For example, in 2014, the presidents of Guinea and Ghana turned up at the World Economic Forum to heap praise on the World Economic Forum's Responsible Mineral Development Initiative but did not mention a word about the African Mining Vision in their speeches. In effect, there had been cherry picking demobilisation and appropriation in the name of actually offering support. The struggle for control is not simply taking place through confrontational mechanisms like the

Raw Materials Initiative. There are also soft initiatives which try to build hegemonic influences which mobilise existing consents and discourses. The EITI is a very good example of that kind of initiative.

We are all for revenue transparency but if one takes the position against the primacy of revenue as a concern in minerals, that is considered problematic. If you also take the view that transparency is necessary for all processes, then you do not need a special mechanism for revenue in minerals. Inevitably, NGOs were mobilised around revenue transparency and African governments paid more attention to the EITI than they pay to the AMV. These revenue transparency initiatives gained even more importance because they were tied to soft aid conditionalities.

The Natural Resource Charter is a private voluntary initiative which was paid more attention to by the World Bank due to elaboration of the terms of the EITI and included elements of AMV. The proliferation of these initiatives supported with resources diverted political attention and fragmented energies. They are the ways in which the dominance of a certain kind of paradigm takes hold. What makes things more challenging is that there exist elements of overlap between the latter initiatives and the AMV agenda.

Many African governments have driven very hard to get more revenue share from mining, which is correct. But you find that there is not a similar drive for greater accountability for the use of the resources. There is not a similar drive for the implementation of free, prior and informed consent which is part of the African Mining Vision framework.

In conclusion, the challenge to regain control by mineral owning countries is confronted by a spectrum of instruments which range from the confrontational framework of the Raw Material Initiative to more soft mechanisms revolving around aid, cooperation, and conditional instruments like the EPA. On the other side of the spectrum, we are seeing seeming areas of cooperation and convergence on issues. What remains unclear is how to approach issues of convergence and cooperation, of ownership and control, of legal status and so on. This uncertainty is bred by the fragmentated terrain of minerals governance on the continent today.

REFERENCES

1 Grajewsk M. EU to Act against raw material export curb. Vietnam Chamber of Commerce, October 2008. Available at https://antidumping.vn/eu-to-act-against-raw-material-exports-curbs-n7277.html
2 European Union Press Release. Commission announces actions to make Europe's raw materials supply more secure and sustainable. 3 September 2020. Brussels. Available at https://ec.europa.eu/commission/presscorner/detail/en/IP_20_1542

THE AFRICA MINING VISION: PROSPECTS AND CHALLENGES

By Treasure Maphanga

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In what follows I am going to reflect on my own lived experience in policymaking and take you behind the scenes in the making of the African Mining Vision (AMV). My central focus will be on the action and implementation processes of the AMV. I will reflect on the policy making process itself from the vantage point of the present and try to share my insights and thoughts on how the AMV symbolises a framework that is very inspirational. It goes far beyond just being a simple policy framework. It talks to the spirit of Africa's own emancipation and attempts to plot a deliberate path for member states to follow for the prudent use of their mineral resources for development purposes.

The AMV is a framework that was created out of a process of consultation. There was an International Study Group and there were a lot of experts brought in with different perspectives in shaping the document that now presents itself as the AMV. When it was presented to Heads of State, their first response was that we need an Action Plan to make it actionable. One of the things that the AU is well known for is having a number of important continental frameworks while at the same time struggling with a history of implementation, monitoring and evaluation challenges. While the process of drawing up the AMV demonstrates valiant efforts to transform a blueprint into an actual action plan, there are still a number of lessons that one can draw from this experience.

Two key decisions were made during the action planning stage of the AMV. First, was the decision to have a resource mobilisation plan. The second was the importance of setting up an African Minerals Development Centre as an institution that would provide the policy research, undertake continuous advocacy and information dissemination as well as monitoring and evaluation. However, the African Minerals Development Centre was only established in 2018, nearly a decade after this decision was made, and is now hosted by the Republic of Guinea.

There has been great commitment and drive behind the process of crafting the AMV and its action plan. Expertise was pulled in from partner institutions working with the African Union, United Nations Economic Commission for Africa, African Development Bank, United Nations Development Program and many others. Third World Network-Africa and other stakeholders have been continually active in promoting the AMV to the citizens of the continent and engaging them to have an awareness of its importance. They have also encouraged member states to implement the AMV's sound policy options and prescriptions.

MISSED OPPORTUNITIES AND LIMITATIONS

Despite the achievements listed above, the AMV has not been owned and deliberated at the highest levels of governance on the continent. This presents a missed opportunity worth highlighting. Although the AMV was adopted by heads of state and government, it is not a policy framework that has enjoyed much discussion at that level. In fact, compared with another framework which many of you are also following closely, the Africa Continental Free Trade Area (AfCFTA), the AMV has little traction and popularity. I have been reflecting deeply on why this is the case.

Notably, the AfCFTA had a champion leader that was appointed to lead advocacy and this has been key in sparking political engagement with the AfCFTA both within and outside Africa. The AfCFTA had the benefit of having His Excellency, Mahamadou Issoufou, the President of Niger as the figure that symbolises the collective will by the countries to move forward on the framework. Heads of states in Africa are championing a variety of causes. Yet the area of natural resource sovereignty and governance lacks such a champion.

The lack of speedy implementation of the AMV also speaks to the challenge of resource governance more broadly. I was working in the Department of Trade and Industry that was responsible for the implementation of AMV however I observed that when I joined the AU there was no division or unit for this area of work. It just did not appear in the structure. This gap needed to be filled and the AMV had to be positioned within an industry division that already had limited capacity for the broader mandate of industrialisation.

If we have an important framework that does not have the coordination mechanisms and capacities to drive and monitor its implementation, then what eventually transpires is up for grabs. Anyone who has resources can grab hold of the agenda and say, 'I am going to go ahead and implement this aspect and that aspect.' This leads to incoherence and a loss of momentum. In fact, in the Department of Trade and Industry, the interpretation was that mineral resources were to be a part of the portfolio that includes oil and gas, land and water. This fragmentation and lack of coordination within the AU was also a weakness.

AVENUES FOR ENGAGEMENT AND POLITICAL TENSIONS

The agenda of the AMV has had its share of political tensions. This is revealed by the dynamics which have occurred at various platforms for engagement. There have been various meetings across the continent where discussions on the AMV have taken place. These include Mining Indabas, where the mining community, the private sector meets to discuss mining policy. The fact is that that has not yet been a platform available for the AU or member states to drive the agenda at these events. So while mining indabas are fruitful to raise awareness, deeper engagement around its contents and implementation remains lacking.

For example at the 2014 Mining Indaba, there was a sudden announcement made by one of partners of the AU that they were launching a big programme which was called the Billion Dollar Map. This was an initiative to map all the mineral resources on the continent of Africa. This came as a big shock to the delegation from the AU who had not heard of this and created a very tense situation. Out of this eventually emerged an impetus to establish a technical committee for African minerals geosciences. What is notable in this case is that another private sector role player grabbed the agenda of minerals governance in the absence of continental leadership. The effect was to wake up the structures who were responsible for rolling out the coordination of the AMV to take on their responsibilities.

As discussed above, there was an effort to establish an African Minerals Development Centre. What was striking about this was the bidding process that ensued, revealing it to be a contested space for member states. To put it bluntly, there was almost a scramble by different countries to position themselves as the best custodians for the Centre. I thought that perhaps this was an indication of how member states were starting to appreciate the importance of this Minerals Governance and the need for member states to drive the agenda collectively and to provide an environment for which all stakeholders may benefit.

To conclude, if I reflect on the challenges of institutional arrangements, capacities, resourcing, and the reform agenda that has taken place at the AU, my personal regret is that we have not yet been able see the fruits of the decisions that were taken way back in 2011 on the AMV. It has been a whole decade since then. It has taken far too long, and the losses have been enormous due to the delay in implementation.

Looking at things from another point of view, I think that collaborative work has given us the opportunity we reflect on lessons learned and how we can improve implementation. Perhaps it is time to review the processes that we have gone through with the AMV to breathe new life to it. This should reflect the new environment that we are now in, a digital age, an age where we are talking about regional value chains driving industrialisation. I hope that the effort to drive industrialisation and reform our minerals regimes continues to be part of our discussions.

THE POLITICAL ECONOMY OF EXTRACTIVISM AND LAND RIGHTS IN AFRICA

By Dr Hibist Kassa

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On September 5, 2021, special forces of the Guinea military led a coup and announced the dissolution of the constitution. This is the fourth coup in the West African region this year. Alpha Conde, the deposed leader, entered political office as a champion of democracy, promising to review mine licenses and to lay the basis for constitutional rule. The heydays of the democratisation period in 2010s was not only supposed to end military rule, corruption and maladministration, but also create enabling conditions for minerals development that is oriented to improving the quality of life, reducing inequality and eliminating poverty. In real terms, Guinea has scored poorly in the Commitment to Reducing Inequality Index, which measures social spending, progressivity of tax and labour protections, with a 2020 regional ranking of 30.[1]

Prior to the coup, there were widespread protests in Guinea, not only against maladministration and corruption but also against the extreme poverty conditions which persist in spite of the mineral wealth of the country. With the world's largest reserves of bauxite, an essential raw material in aluminium production, and the single largest untapped iron reserves, the coup shook global markets[2]. As early as April 2011, it is reported that Rio Tinto, the Anglo Australian mining giant, had engaged in corrupt dealings with the Guinean government through a personal friend of Conde, French Banker Francois de Combret[3]. After the revelations of the dubious transactions, Rio Tinto sold off its share of the Simandou reserves to a Chinese firm, Chinalco. Half of China's bauxite is imported from Guinea, which has offered an alternative to its dependence on Australia for imports. Russia, has also made significant investments in Guinea, with an aluminium refinery and mines.[4]

The coup leader, Mamady Doumbuya, has promised to once again review mining contracts including of those signed with Chinese firms. There are 14 public and private Chinese firms active in Guinea's bauxite sector. Since Guinea has 8.6 billion tonnes iron reserves is the last major high grade iron reserve and has been the site of intense competition to control concessions also requires mega infrastructure investments. To this end, a consortium of Singapore's Winning Shipping, Guinean mining logistics firm United Mining Supply (UMS), Chinese aluminium producer Shandong Weiqiao and Guinea's government has sought to build a deep-water port and 650 kms of railway lines. As was also the case in the financing for railway system in the colonial period in the Gold Coast (now Ghana), alongside the anticipated transport of minerals and machinery, the inclusion of other goods such as the agriculture sector reduces the overall cost of financing the transportation infrastructure project.

The extractivist nature of this project remains barefaced and intact as it does not stimulate the transformation of the Guinean and African economy more broadly. The bauxite and iron deposits of Guinea are not being utilised significantly in a regional development strategy to spur industrial development around a regional renewables sector, neither are there agro-industrial linkages that integrate smallholder producers. Infrastructure projects to prioritise and stimulate the productive capacity of the Guinean economy, let along sub-regional and or continental development is not on the table. Neither is there significant social investment in Guinea as the Commitment to Reducing Inequality reports in 2019 [5] and 2020 [6], mentioned previously, emphasise. The Guinea case starkly exposes how the paradox of Africa's mineral wealth and extreme poverty can be explained with a political economy approach that illuminates the competing geopolitical and nationally rooted interests that preserve Extractivism.

DEFINING EXTRACTIVISM

Taking the Guinea case as a point of departure, Extractivism is more than just mining. It is a broader concept that refers to an *uneven relation* that exists between economies in the Global South and the interests and priorities of the centres of global capital. This uneven relation is facilitated by the commodification of the commons (land, natural resources, knowledge systems and culture) and the dispossession, displacement and or integration of forms and means of production and social domains that may or may not retain a degree of autonomy. The neoliberal era has intensified these patterns with renewed impulse for land and water grabs, and attempts to codify land rights and restructure property relations to facilitate capitalist investment.

Notably, China has managed to reorient itself away from a position of dependency and underdevelopment to lifting 100 million people out of poverty. It has also been able to mobilise its own resources to build an industrial base without displacing the rural economy as we see with urbanisation and decline of rural economies in the African region. Nonetheless, China is still embedded in relations of dependency on the Global North as primary markets for its goods and services. In as much as it offers a model for the Global South, it also has been turning to the African continent to address its raw material needs as the Guinea case illustrates. What needs to be on the table is how Africa, within the conditions of late capitalist crisis, can also advance its own transformation in a manner that serves priorities of addressing inequalities and environmental concerns.

I suggest that the insight that the economic dimension of Extractivism offers is to analyse the central dynamic of surplus value extraction that shapes other processes at a systemic level, and has implications for the reproduction of inequalities and the environment. These processes are facilitated through illicit and illicit financial flows, infrastructure investments that create new mechanisms for value extraction through financialization. The reproduction of inequalities is best understood through a focus on labour, and its reproduction, and environment. Usually, the latter are not factored into assessment of extractivist projects, ensuring the actual costs of these activities are externalised on the environment, host communities and public social infrastructure. To be able to better situate analysis of Extractivism, one would need to historically examine processes of economic change and how patterns of racialised and gendered forms of exploitation altered relations with the land and environment. The next section takes up an environmental historical analysis of colonialism, and in extreme cases in Southern Africa, apartheid, provides an understanding of how changing how Africans related with nature and the creation of wage labour are at the root of Extractivism.

NATURE, LAND RIGHTS AND AFRICAN PRODUCTIVE CAPACITY

Anne Philips, in *The Enigma of Colonialism*[7], draws into focus how the colonialists in West Africa would utilise 'The conservationism' as a means to 'protect nature from people'. In effect justifying dispossession, resettlement and control of migration patterns on the basis of environmental imperialism. The connections between how Africans had to be controlled from interacting with their environment, would entail regulating production and reproduction, and thereby labour including gendered labour relations.

William Beinart[8] takes a similar perspective when he explains how:

> Colonial officers advocating regulation deemed it essential for efficient and safe natural resource exploitation and ultimately the future of agriculture whether by settlers or African peasants…Similarly, forest protection and afforestation were initially pursued largely to ensure timber extraction could be sustained…Ideas and prescriptions for environmental regulation which were applied to African areas had sometimes been forged previously in relation to settler agriculture also perceived as wasteful and inefficient (emphasis added).

In another vein, Wolpe[9], writing in 1972 on apartheid South Africa, contends that the ultimate creation of reserves laid the basis for entrenching a system of cheap wage labour. Women played an important role in reproduction, to primarily supply the labour needs of 'white mining capital'. On the other hand, Lipton (2007: 43) points to how the reserves served the interests of plantation farmers, while mining companies shifted more to migrant labour from beyond the borders of South Africa.

As these changes were taking place from above, there were also tensions from below arising out of existing social relations of production and reproduction, and existing interactions with nature that are rooted in culture. In relation to these tensions, Beinart writing in 2000 draws in analysis drawn from Pondoland, (where in this issue we also feature an interview with Nonhle Mbuthuma[10], spokesperson of the Amadiba Crisis Committee)

> …a deeper concern about the threat posed to the independence of the homesteads by commoditisation through trade, by entry on unfavourable terms into the labour market and state intervention to change the patterns of land occupation. It should not be taken to suggest complete opposition to the process of absorption into the capitalist world… the people of Pondoland were by no means unresponsive to the opportunities and pressures which accompanied colonisation' (emphasis added).

Nancy Jacobs in Environment, Power and Injustice[11], draws on empirical evidence from Kuruman, a town in Northern Cape of South Africa, which had developed 'a dynamic form of economic relations of trading with mining towns but did not opt for work in the Johannesburg gold mines.' She highlights how there have been responses to environmental trauma, gendered class formation and racialised forms of economic change. Jacobs describes how:

> The semi-arid thorn-veld and its river valleys constituted the immediate environment of Kuruman people, and whatever their other concerns, rain, crops, stock, access to land the costs and yields of production, and rights to produce food ranked high among their preoccupations…Essentially… environmental injustice – structured inequalities in the ways people related to the biophysical world…

The above illustrates how the violent process of dispossession not only undermined smallholder producers and relegated Africans to cheap wage labour, but also dislocated their relations with their environment. The obstacles to the small-scale producers in agriculture and mining are centred on access to markets, finance, deposits, and mineral and land rights. But beyond these aspects, there are other structural factors that need to be considered.

This draws attention to how building productive capacity is not just a technical question. Archie Mafeje[12] writing in 2003 on sub-Saharan Africa on the agrarian question addresses how to improve productivity through appropriate land tenure systems and, what he analyses as an, African mode of social organisation with commercialisation. The latter, based on kinship, are relations of domination and not exploitation do not create an opportunity for class conflict, rupture or transformation of relations. Southern African region land and agrarian structure that is likened to Latin America, and a distinctly 'unAfrican' situation. It does leave room for negotiation, concessions and is therefore more flexible and integrates unpaid labour. But the real distinction arises in property relations since this is not being premised on exclusivity but on rights of access or usufruct. Mafeje argues further for the liberating possibilities of accumulation from below in certain socio-economic conditions. This brings into focus how the relationships with nature, labour and property relations can be conceived in different ways outside of what was established and entrenched through colonialism and apartheid.[13]

In a broader analysis of the Global South, Sam Moyo and Paris Yeros in ***Reclaiming the Nation***[14] explain that the dominant trajectory in Africa, Asia, and Latin America are characterised by controlled agrarian reforms (through the colonialism and land titling initiatives), uncontrolled urbanisation, stunted industrialisation and export-dependence. This results in a severe disjuncture between domestic production and consumption, as well as between economic sectors, is accompanied by extreme inequality between town and country and between domestic sub-regions.

Moyo and Yeros[15] emphasise that alternative to these general trends is '*planned and articulated accumulation from below'*. Experiences of autonomous development vying for independence from the Soviet model was itself an important model of planned development. The most prominent case is China characterised by armed struggle (largely against Soviet directives), bottom-up collectivisation, balanced rural-urban development, slower-paced industrialisation, integrated agro-industrial development. Other examples include Yugoslavia (where there was an independent armed struggle and experimentation with enterprise-level self-management) and Cuba (with an independent armed struggle and collectivisation)[16]. Countries in Africa have their own experimentation with collectivisation, cooperatives and state-led industrialisation which are mostly associated with the immediate post-independence period.

These examples draw attention to the challenge of transforming African economies that are predominantly based on extraction of raw materials, and the disproportionate place of corporations in relation to smallholder producers, towards more diversified economies with rational links between smallholder producers and industry. The place of mining in these forms of transformations, as analysed in the case of Zimbabwe by Mberi, Mazwi and Chambati in this issue, provides a basis to consider the linkages between agriculture and mining that can be established for industrial development thereby transforming the structure of these economies. The conditions of neoliberal reforms that came into play in the late 1980s and 1990s, have continued to have bearing on shaping the mining regime on the continent. The next section is focused on understanding how these reforms have had an impact on mining and land rights, alongside the prevailing concern for regulation of conflict minerals and increased accountability in mining.

MINING REFORMS, CONFLICT MINERALS AND ACCOUNTABILITY

Neoliberal mining reforms have not created conditions ensure the building of linkages between sectors, but instead have created the conditions for deepening Extractivism. Bonnie Campbell [17]highlights how the nineteenth-century formulation of mining regimes in American and British spheres guided the liberalization process of African mining regimes over the 1980s and 1990s. Underlying this were the protection of three principles. First, a right of 'free access to lands.' Second, acquisition of titles and third, a right to proceed to develop and mine the minerals discovered. Importantly, when mineral resource development is prioritised over other forms of production, it translates into displacing smallholder producers and any other assets that are not mining focused. Meanwhile, governments were expected to create conditions for low-cost production, including access to cheap wage labour on flexible terms. Introduction of contract labour has been a persistent feature of the neoliberal period.

On the other hand, on land rights, the De Soto Thesis, a prevailing view underlying land reforms presumes that communal lands are 'dead assets' which need to be converted to productive assets through titling. This is assumed to create the conditions for growth, by creating secure conditions for investments but in real terms leads to renewed land dispossession. While corporations have been able to utilise traditional authorities to facilitate access to land and natural resources, titling also facilitates their ability to enforce and secure private property rights over lands and natural resources. While it is acknowledged that customary laws are themselves exclusionary of women, emphasising the importance of women's land rights, it is still important to consider how titling opens up the threat of commodifying territories where communal rights are exercised. This positions women's land rights in a difficult terrain since titling does open up territories to the marketisation of land and natural resources, [18] thus presenting a conundrum. [19]

Another challenging area of mining that has been the focus of policy makers in Africa with the turn to liberalisation of the mining regime is artisanal and small-scale mining (ASM). A 2008 World Bank report on mine licensing advised developing countries that: "'Successful' countries have well-articulated policies and legal and institutional frameworks which support small and large-scale mining *without imposing uneconomic fiscal burdens*"[20] The impact of liberalisation had been to cut back on public spending that weakened the capacity of environmental regulatory authorities, research and development and extension services to support smallholder producers. There is a need for consideration for the expenditure needed to support and strengthen these public institutions and mechanisms. The capacity of the state to regulate mining had been undermined through the successive waves of mining reforms and austerity. Mining reforms were intended to draw Foreign Direct Investment but did so on terms that did not enable local economic growth and diversification, let alone centre the interests of smallholder producers.

Meanwhile, regulations were formulated across the continent in the 1980s and 1990s to formalise ASM with some countries like Ghana laying out specific laws, while others amended existing mining legislation. The outcome of these reforms has been the persistent criminalisation of artisanal mining which have also been associated with conflicts in Africa, particularly in Liberia and Sierra Leone, and more recently, the Democratic Republic of Congo. To this extent, regulating the sector and assuring minerals extracted are not drawn from conflict situations gained a lot of attention in policy making processes.

When civil wars in Sierra Leone (1991-2002) and Liberia (1989-2003) engulfed the West African subregion, it was widely acknowledged that global trade networks of diamonds had fuelled the war. Not only did warlords profit off of the labour of artisanal miners, which included children, but also generated surplus profits for corporations such as De Beers. West Africa sub-regional initiatives sought to address this through the Kimberly Process (that included Cote d'Ivoire, Guinea, Liberia and Sierra Leone). This is the global initiative was established to eliminate "conflict diamonds" by establishing a comprehensive certification system. It defines conflict diamonds as '*rough diamonds used by rebel movements or their allies to finance armed conflicts aimed at undermining legitimate governments*'. This has been criticised as being a narrow definition that does not include states and corporations as actors that can benefit from minerals in conflict situations.

An example is that of Zimbabwe in Marange where the military took over concessions by brutally displacing local communities and artisanal miners. Zimbabwe produced 12 million carats of rough diamonds valued at about US$ 644 million in 2012. The Centre for Natural Resource Governance (CNRG) in Zimbabwe explains that exploration, mining and sorting is only done in Zimbabwe, while the cutting, polishing, jewellery, manufacturing and retailing is being done outside. Also, an auction system was introduced with mining companies preferred to sell good quality stones to international dealers, adding that the auction system favoured international dealers who had more money than local players. The outcome of this is that a greater share of value-addition happens outside of Zimbabwe, meaning not enough surplus generated is retained in the domestic economy.

CNRG emphasises the need for 'broad-based growth and development' through mineral beneficiation (value addition) and manufacturing. Additionally, CNRG recommends '*financial and technical assistance from the state*' to support local entrepreneurs 'to compete with established companies in all sectors of the economy. USAID in a review of Kimberly process in West Africa also recognises the sub-regional emphasis on the need for *financial and technical support for states* to be accrued from improved regulation from diamond mining.

THE AFRICAN MINING VISION: THE ANTIDOTE TO EXTRACTIVISM?

Accountability mechanisms that are accessible and effective to hold multinationals accountable for violations of 'mining communities' often displaced, victimised and their livelihoods, environment and health affected by mining operations. The African Mining Vision, which is discussed in in-depth articles in this issue by Yao Graham and Treasure Maphanga, outlines the African Union's broad strategy for the continent to strategically develop its minerals sector also includes a principle of Free Prior and Informed Consent. As Nonhle Mbuthuma who is interviewed in this issue asserts, the principle is to ensure communities affected by mining operations *must be consulted before* exploration or *any other phases in the lifecycle* of the mining project. Uneven power relations between governments and transnational mining companies, on one hand, and communities which hold diverse views and inequalities, creates a complex dynamic that continues to make ensuring consent is sought through safe, fair and equitable decision-making processes very difficult and even dangerous in practice.

Instead, what has been pervasive are voluntary mechanisms for corporations to regulate themselves at the global and regional levels. These voluntary initiatives are not even subject to a regional accountability mechanism. The African Mining Vision which is a policy framework of the African Union has been very weak in implementation. Weak political backing and engagement on the AMV and competing initiatives from the World Economic Forum has disproportionately occupied the policy making space. I argue that these voluntary mechanisms occupy a vacuum created by the weakened technical and financial support for state agencies to regulate mining. Moreover, critique of the AMV as deepening Extractivism by environmentalists in Africa such as Nimmo Bassey and WoMin Regional African Alliance draws attention to the need for a deeper assessment even if the AMV provides an alternative to corporate led initiatives, if the form still needs to be contested and further deliberated upon.

The above situation means that even though at the level of articulation and framing, the AMV offers a regional advancement in breaking from Extractivism, a policy vacuum still exists at the regional level which may also mean an opportunity to further develop on it. Thus, although the continental strategy remains side-lined, the existing frameworks still offer a baseline which can be contested and engaged as a reference point to hold states to account for weak implementation, while also advancing strategies that take on board national and local priorities to dismantle Extractivism, and with it, corporate domination.

This article has sought to contribute to elaborating on the meaning of Extractivism as centred on the extraction of surplus value and reflect on how this uneven relation can be dismantled. It has sought to outline the historical processes through which dispossession has been rationalised which was justified by environmental imperialism. Separating Africans from natural resources and dismantling their natural resource sovereignty was therefore rationalised as being environmentally sound. Examples in the Global South that have sought to transform these uneven relations were considered but the persistent challenge remains for the African continent. The manner that mining and land reforms introduced have deepened Extractivism were also outlined. The attempts to regulate conflict minerals and set up voluntary accountability mechanisms were also found to have not addressed the persistent structural transformation problem. While the AMV has offered the space to articulate, on its own terms, an alternative, it has not only had weak implementation but also experienced criticism by some environmentalists on the continent, bringing into focus the need for an intervention that attempts to build bridges and explicitly grapples with the contradictions of development under capitalism which mining as a sector amplifies. By its very nature, asserting African Resource Sovereignty is anti-imperialist, and thereby risky, contradictory and controversial. If we are to break from our location in the periphery of an uneven global system that depends on our resources to maintain these relations, it cannot be avoided. If we are to liberate ourselves from extreme poverty, inequality and underdevelopment, we must define and assert African Resource Sovereignty.

REFERENCES

1 Martin M, Lawson M, Abdo N, Waddock D, Walker J. Fighting Inequality in the time of COVID-19: Commitment to Reducing Inequality Index 2020. Development Finance International, Oxfam International, 2020.
2 Smith E. Guinea Coup Rattles Iron Ore and Bauxite Markets Stokes Economic Uncertainty. CNBC, 7 September 2021. Available at https://www.cnbc.com/2021/09/07/guinea-coup-rattles-iron-ore-and-bauxite-markets-stokes-economic-uncertainty.html
3 Perelman M. Audio Recordings drags Guinea President into mine bribery scandal, France24, 1 December 2016. Available at https://www.france24.com/en/20161201-exclusive-audio-recordings-guinea-president-conde-simandou-mine-bribery-rio-tinto
4 Benny Steinmetz, a French-Israeli billionaire, who was also contesting Rio Tinto who previously had concessions returned to them from Steinmetz by Conde, was found guilty in January this year or bribery related to the transaction. Miller, Hugo. Benny Steinmetz sentenced to five years for Guinea Bribe, Business Day, 24 January 2021 available at https://www.businesslive.co.za/bd/world/europe/2021-01-24-beny-steinmetz-sentenced-to-five-years-for-guinea-bribe/
5 Hallum C, Obeng K. The West Africa Inequality Crisis. Development Finance International, 2019. Available at https://oxfamilibrary.openrepository.com/bitstream/handle/10546/620837/bp-west-africa-inequality-crisis-090719-en.pdf
6 Martin M et al. Op cit.
7 Philips A. The Enigma of colonialism: the British policy in West Africa. Currey London. 1989
8 Beinart W. African History and Environmental History. African Affairs. 2000
9 Wolpe H. Capitalism and cheap labour-power in South Africa: from segregation to apartheid. Economy and Soci¬ety, 1972. 1:4, 425-456.
10 A podcast of the interview can also be heard on Spotify 'PanAfrican Sojourners' which is also available at https://anchor.fm/projects-ifaa
11 Jacobs N. Environment, Power, and Injustice: A South African History. Studies in Environment and History, Cambridge: Cambridge University Press. 2003
12 Mafeje A. The Agrarian Question, Access to Land, and Peasant Responses in Sub-Saharan Africa. United Nations Research Institute for Social Development. May 2003.
13 Ibid.
14 Moyo S, Yeros P eds. Reclaiming the land: The resurgence of rural movements in Africa, Asia and Latin America. Zed Books. 2005
15 Ibid
16 Ibid.
17 Campbell B. Revisiting the Reform Process of African Mining Regimes, Canadian Journal of Development Studies, 2010. 30:1-2, 197-217
18 Razavi S. Agrarian Change, Gender and Land Rights. Journal of Agrarian Change. 2003
19 Whitehead A, Tsikata D. Policy discourses on women's land rights in Sub–Saharan Africa: The implications of the re–turn to the Customary. Journal of Agrarian Change, 2003. 3 (1-2), 67-112.
20 Charles Krakoff. Sectoral Licensing Studies: Mining Sector. Investment Climate Advisory Services. 2008.

ENVIRONMENTAL AND HUMAN RIGHTS ACCOUNTABILITY GAPS IN MINING

By Dr Hibist Kassa and Rachael Nyirongo

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FROM NEW 'CONSTITUTIONAL MOMENT' TO CORPORATE CAPTURE

In the lead up to the Rio +20 Earth Summit in 2012, there was great concern that global capitalism had overreached planetary boundaries and the world was reaching critical tipping points.[1] The Rio +20 Earth summit was seen as offering the opportunity to create frameworks that would contain and reverse this process as governments assessed the world's progress towards achieving 'sustainable development'. This was preceded by a review process of the Millennium Development Goals (MDGs), the flagship project of the the late former Secretary General of the United Nations Kofi Annan, which had already facilitated the entry of corporations as development partners through the Global Compact on Human Rights, Labour and Environment in 1999. The Global Compact had been created as a platform to enable voluntary forms of mitigation of corporate violations of human rights, labour and the environment 'to give a human face to the global market'.[2] The Global Compact has been followed by the 2011 United Nations Guiding Principles on Business and Human Rights[3] which also creates voluntary guidelines for businesses and states to operationalise ensuring human rights abuses are prevented, and where they do occur voluntary measures are taken. However, since these are voluntary mechanisms, they do not hold transnational corporations and their subsidiaries to account.

A model for international governance for an inclusive and participatory approach to policymaking is the World Committee on Food Security. The Committee does not only create space for expert-led, and politically informed processes that ensure business interests have access to policy makers, but also communities affected by food insecurity. Olivier De Schutter, assessing reform of the Committee on World Food Security in the aftermath of food riots in 2007-2009[4], argues that it largely succeeded in creating policy coherence between trade, development, agriculture and climate change. However, despite this success, Schutter concludes that this merely facilitates the functioning of the uneven international economic order.

Meanwhile, in January 2012, UN special rapporteurs wrote an open letter [5] to the heads of state which drew attention to calls from the scientific community for the need for a 'new constitutional moment' and an 'environmental equivalent of the security council'. The special rapporteurs called for human rights to be understood as being 'interdependent and mutually reinforcing' in line with existing frameworks governing the right to safe and clean water and the right to food. They also called for an international review process akin to the Universal Periodic Review of Human Rights, alongside a national accountability mechanism citing the South African Human Rights Commission as an example. [6]

CORPORATE ACCOUNTABILITY IN EXTRACTIVISM

The uneven integration of economies in the Global South into the world economy poses the challenge of also creating conditions that can enable diversification of economies. The pursuit of structural transformation remains a prevailing concern as part of a broader strategy to improve standards of living by rebuilding domestic economies which remain underdeveloped or even unviable colonial constructs. The extractivist nature of economies in Africa and the centrality of mining operations in this is revealed in the fact that transnational corporations are deeply complicit in illicit financial flows which effectively drains resources which could be utilised for diversifying economies and building much needed social and physical infrastructure.

The African Unions (AU) flagship policy framework of Agenda 2063, and specifically its minerals strategy in the African Mining Vision (AMV), integrates these critical perspectives on the need for structural transformation and diversification of African economies. A key prerequisite for the latter aim is to ensure African peoples are able to wield sovereignty over land and natural resources to achieve developmental goals. This has implications for securing the right to life and wellbeing, decent work, food sovereignty, access to clean and safe water and environmental protection in contexts where there are contestations over the impact of mining operations.

The African Mining Vision [7] recognises the principle for Free Prior and Informed Consent (FPIC), which means communities affected by mining operations must be consulted *before* exploration or *any other* phases in the lifecycle of the mining project. This means communities affected by mining can reject the setting up of or expansion of existing operations. It also means that extensive and meaningful consultations are needed before projects take off. In practice, the construction of consent where transnational corporations, governments and traditional leaders wield uneven sources of power and where the dominant power centre is likely to support vested interests to permit mining projects, creates tensions that can turn lethal for activists who resist this imposition. The assassination of mining activists such as Fikile Ntshangase, a mining activist in KwaZulu-Natal[8], and Bazooka Radebe, of the Amadiba Crisis Committee in Xolobeni, highlight this distressingly. The 'Right to say No and Consent' before, during and when mining operations close down, are important as emphasised by Nonhle Mbuthuma and Papiki Shawn Lethoko in this issue, Mining Affected Communities United in Action and Women Affected by Mining United in Action and Women in Mining.

An accountability mechanism must ensure that conditions exist for FPIC to be a meaningful process where communities can hold corporations to account. Protection of human rights and environmental destruction in Africa while not grappling with structural conditions in the minerals sector that continues to erode the quality of life, wellbeing and disrupts the ecological balance between nature and capitalist expansion will erode livelihoods and damage the self-reliance and autonomy of communities.

BINDING TREATY AS A GLOBAL ACCOUNTABILITY PROCESS

Intensified economic globalisation since the 1990s was characterised by rapacious extractivism during the decade long minerals commodity boom of the 2000s. In this period, civil society networks and organisations across the world intensified campaigns to hold corporations accountable for human rights and environmental abuses. In September 2013, during the Human Rights Council assessment of transnational corporations, Ecuador alongside other member states proposed that there should be a legally binding instrument.

Ensuring that there is a framework for accountability that is binding is critical in the fight to achieve natural resource sovereignty. This would mark a decisive shift from voluntary mechanisms and ensure there are punitive actions to be taken against the abuses by transnational corporations and their subsidiaries. At present, only states where transnational corporations are based can demand mining companies reporting on investments in their home countries and across the world. Canada, for instance, requires this while Australia lags behind on such a reporting mechanism. However, this does not ensure that corporations are held liable for activities in host countries-i.e. foreign countries where multinationals have decided to invest. The need for a cross border accountability framework is therefore urgent and clear.

The campaign against an Australian titanium mining giant led by the Amadiba Crisis Committee in Xolobeni, Eastern Cape of South Africa where activists have been killed and have received death threats[9] poignantly emphasises the urgency for a legally binding instrument. This instrument would have arguably prevented this violence. On 26 June 2014, a resolution to establish an Open-Ended Intergovernmental Working Group (OEIGWG) on transnational corporations and other business enterprises was adopted by the Human Rights Council. The OEIGWG has held six sessions so far, with keen engagement and mobilisation by civil society networks across the globe, alongside regional powers such as the European Union. The second revised draft of the Binding Treaty negotiations was deliberated in October 2020. However, in the lead up to this, a civil society coalition, the Global Campaign to Reclaim Peoples Sovereignty, Dismantle Corporate Power and Stop Impunity, raised a number of serious concerns.[10] These concerns are outlined below.

Firstly, the Global Campaign notes the omission of obligations for transnational corporations to respect human rights.[11] Under the 'Statement of purpose' in Article 2, the focus appears to be on states' responsibilities to respect human rights. Article 9 'Adjudicative Jurisdiction' refers to the extent to which there will be domestication of the Binding Treaty with domestic courts taking up cases where human rights abuses are committed, or where corporations are domiciled. It does not, however, create an international court that specifically deals with transnational corporations that have complex ownership structures and connections with subsidiaries. This potentially ensures the biggest players and those most likely to be guilty of human rights abuses are free from scrutiny.

Additionally, there is no consideration of global value chains and their implications for how the operations of transnational operations impact human rights. For instance, trade unions and corporate accountability initiatives are attempting to map out and analyse rare earth minerals extraction and the supply chains for batteries to inform regulation of minerals that includes artisanal mining.

There are also ineffective mechanisms to implement the Binding Treaty and the lack of prioritisation of human rights law above trade and investment agreements. The second revised version of the treaty has such a broad remit on all forms of business enterprises that it effectively dilutes it substantially. This has led to the Global Campaign to Reclaim People's Sovereignty to conclude that the treaty had 'lost its soul'. [12]

Perhaps the most important weakness of the treaty is its failure to deal with one of the most dominant forces to emerge out of the neoliberal period, namely, the corporate capture of states and multilateral institutions. This corporate capture has a greater impact when there is no accountability mechanism at a global or a regional level that can hold corporations to account. Thus far, the mechanisms at a regional level hold states to account for human rights violations at best. There is no provision for environmental crimes to be brought before a court which can not only preside over cases but also impose penalties that can be binding for states to enforce. Instead, what exists are voluntary processes that enable corporations to report and ostensibly 'self-regulate' which in practice has enabled an atmosphere of impunity. Given that countries where corporations are based are able to mandate reporting on environmental and human rights impacts, cases can be taken to countries which dominate the extractives sector in the Global North. However, the accessibility of these court processes for impoverished and disenfranchised communities raises immense hurdles. On a regional mechanism on a corporate mining giant rooted in Africa opens up the possibility for a mechanism that is contextually appropriate to shape the kind of regulatory framework we need for African self-reliance and autonomous development that can be environmentally sustainable and even socially transformative. In the next section, we briefly assess the kinds of questions and violations that arise when assessing a mining giant that is historically rooted in the African continent.

THE MAKING OF ANGLOGOLD ASHANTI

AngloGold Ashanti has a long history of operations in Ghana and South Africa and can therefore provide insights into how mining capital has evolved from the late 19th to 21st centuries. In Ghana, the concern for sovereignty over natural resources prevailed in the Nkrumah era and persisted until the neoliberal turn of the 1980s. By 1994, the Government of Ghana had already sold half its majority shares in Anglo Gold Company (AGC), the oldest gold mining firm initially established in 1897 by indigenous entrepreneurs.

In 2004, under the stewardship of CEO Sam Jonah, AGC lost out in risky hedge funds, becoming bankrupt. As a result, it was forced to open negotiations for mergers or acquisitions. This was and continues to be a contentious issue in Ghana where concerns have been on the loss of a national asset and therefore further erosion state sovereignty over natural resources after two decades of market reforms. After numerous challenges to the deal, on 26 April 2004, the High Court of Ghana ruled in favour of the merger of AngloGold and Ashanti Goldfields Company (AGC) to form the global gold producer now known as AngloGold Ashanti (AGA).

In South Africa, the colonial and apartheid era provided the foundations upon which a cheap labour system was extracted out of African and indentured labour from Asia to accumulate profits for mining giants such as Anglo American. The transition to liberal democracy in 1994, opened up the mining sector to pressure from the global market. This led to conglomerates being pressed to have a narrower focus on their asset profile so that shareholders could extract more value.[13] This trend had an impact on a corporate giant like AngloAmerican. By 1998, AngloAmerican repositioned itself in the liberalised South African economy, by offloading its gold assets under an independent company, AngloGold.

AGA is therefore a product of an era of financialisation and as a transnational corporation based in Africa enables us to ponder again on what kind of developmental paradigm can ensure meaningful and transformative resource sovereignty. A core concern has been the manner that extractives, dominated by corporate mining, has had a disproportionate impact on the social, environmental and economic conditions while generating profits for corporations especially during mineral commodity booms. The following cases highlight some of the environmental and human rights abuses which a regional accountability mechanism ought to provide a route to address.

Although Tanzania is one of the top gold producing countries on the continent and has a fast-growing economy this is not reflected in the socio-economic indicators of the country. This disparity is a result of years of inadequate policies. The Tanzanian government needed development finance and the interest of foreign direct investors to invest in the mining sector. New mining laws passed in 1998 attracted foreign investors, since then the mining sector has been dominated by foreign companies, however, the mining sector continues to not contribute much to the socio-economic of the country. In 2017, under President Magufuli, new laws were introduced to ensure that the mining sector became a bigger contributor to the revenues, beneficiation and local procurement.[14]

AGA's largest gold mine in Tanzania is the Geita mine. Due to the accommodating legislation, many foreign companies signed highly favourable mining agreements. The poor local procurement rates provided an opportunity for AGA to implement local procurement strategies before the government. In 2014, AGA launched a five year local procurement plan, which showed great results in the first year but soon drastically dropped in the following years. It was also later determined that the numbers of the local procurement successes did not reflect on the ground. When the government introduced new laws in 2017, AGA launched arbitration activities to prevent the Geita mine from being affected.[15] The government stuck to its laws and they reached an agreement with AGA in 2020, details of which have not yet been made public.

THE INTERNALLY DISPLACED OF SOPHIATOWN, TANZANIA

AngloGold Ashanti's history in Tanzania is more recent, with the expansion of the mining sector being a relatively recent trend. Primarily an agrarian based economy, as is the case in Ghana, mining did not feature strongly during the early phases of the post-independence period. Alluvial gold mining was a supplementary form of livelihood activity for farmers in pre-colonial Tanzania, as is the case in many other parts of the continent. Also, there is a history of inter-regional gold mining and trade that connected the Great Zimbabwe and the Indian Ocean trading routes. However, large-scale mining which began in 1894 is closely associated with German colonialism. Operations in Geita and Musoma, north-western Tanzania, began in the 1913, and later under British rule, expanded with further discoveries in Mwanza. Prior to World War II, there was a boom in the minerals commodities, unfortunately, the mining sector underwent significant decline that led to closure of the mines in the 1960s and 1970s. It was until 1991, when the government sought to revive the sector through mining reforms to encourage private sector investment. [16]

In 2000, AngloGold (a subsidiary of AngloAmerican) and Ashanti Goldfields Corporation re-commenced the Geita Gold Mine in the Mwanza region of Tanzania as a joint venture. Four years later, the two companies merged to become AngloGold Ashanti (AGA). An investigation carried out in 2013 by the Integrated Regional Information Networks (IRIN) (now "The New Humanitarian") exposed how farmers and villagers in the area were forcibly evicted by the Tanzanian government to the outskirts of Geita. Two hundred and fifty-eight villagers from the Mtakuja Village were initially forcibly relocated by the Tanzanian police in July 2007 and placed in a single room abandoned building. The Christian Council of Tanzania stepped in and provided the villagers with tents, which became their new home. The new settlement was given the name "Sophiatown" because of its resemblance to a refugee camp.[17] The people of Mtakuja claimed they had either not been compensated while those who were had been disappointed since the compensation did not compare with what they had lost. In one case, a farmer was paid 400,000 Tanzanian shillings (US$239) for his half-acre land with a house, banana trees and cassava.[18i]

According to the Land Act,[19] the people of Mtakuja have a right to be compensated for the loss of occupancy and the responsibility lies with the government. Furthermore, the Land and Compensation Regulation provides that the government has the discretion to decide what form the compensation will take, as long as it is comparable to what was lost. AGA claims that during the initial sale of the land, which happened in 1999, it gave full agreed-upon compensation to the government between 1998 and 2000. AGA states that at this point, according to Tanzanian legislation, the responsibility to compensate and resettle the residents rests with the government. The claims were taken to court by the villagers, however, the court ruled that the villagers had no legal rights to the land and ordered their eviction. There has not been transparency as to how much had been transfered to the government by AGA, and how these funds had been used by the government. What is known is that compensation had been paid by AGA to the government, but the villagers did not receive adequate compensation, if any.[20] Despite the villager's attempts to take legal action, they also claim there was collusion between their lawyer and the judge.[21] This is a reminder that a regional accountability gap is not only in accessing courts but is also potentially open to weaknesses in their operations.

OBUASI MUNICIPALITY, GHANA

Obuasi is a municipality in the middle belt of Ghana. Primarily a rural area, the main source of livelihood is agrarian based. The people around the Obuasi mine have expressed various ways in which they have been discriminated against as a result of the Obuasi mine in their region. Many are farmers but have had their farms confiscated as mining territory and have had to turn to criminalised artisanal small-scale mining as a means to survive.[22] As a result of the income gap between peasant farmers and AGA employees the people find themselves having to compete with the prices targeted at AGA employees. Research has shown that the prices in Obuasi for staples like yam are more expensive than in the capital, Accra.[23]

Just like in Tanzania, the issue of compensation of displaced and dispossessed people is also a problem in Obuasi. A chief in one of the communities claimed that after AGA destroyed 10-hectare farmland, he was only given 200 Ghana Cedi (about US$34) in compensation. The Land Compensation Office uses two methods to calculate compensation. The first is using a passbook to determine how much land is owned by each person, however, if they do not have a passbook, the office counts the number of trees on the property and multiplies it by the size of the land.[24]

Due to an unemployment crisis, many have turned to artisanal mining. Very recently a guard from AGA was involved in the killing of an artisanal miner who was shot 16 times as he fled from the mine. According to Coyle, there have been direct threats made by the management of AGA to the artisanal miners in the area, that they would be "smoked out like rats" from the mines. Moreover, the Commission on Human Rights and Administrative Justice (CHRAJ) has had multiple instances where they have discovered "private detention facilities" on the territory of the mining company.[25]

In 2009, research was carried out by the Wassa Association of Communities Affected by Mining (WCAM) has shown that there were excessively high pollutants in the water bodies close to the mines. These pollutants included arsenic, manganese and mercury. Medical practitioners in the area have also stated that the biggest cause of some of the more common diseases suffered in the area is as a result of pollution. They have attributed high levels of malaria to the increase of mosquitoes in polluted waters. Some have even been advised to stop drinking the water in the area, but have no other alternative.[26] Likewise, two villages in Tanzania, Nyakabale and Nyamalembo, suffer from contaminated water supplies. The villages are the closest to the AGA's Geita Mine. Nyakabale is 500 meters east and Nyamalembo is 2 km west of the mine, both communities have complained of various environmental issues caused by mining that is affecting their daily lives.

For instance, Nyakabale has experienced disruption of its water supply. Both AGA and the village rely on water pumped from Lake Victoria. Since mining began, villagers have complained that their water sources have either been contaminated or confiscated because they were located within the mining location area. AGA said they have provided domestic points to collect water, however, the villagers have complained of the reliability of the water supply as they do not have water tanks to store water in the village and most times can only collect water when AGA is pumping their water supply, usually at night.[27] On the other hand, Nyamalembo was not afforded any alternative water supplies. Both villages were not given alternative water supplies for their animals, as a result, there have been a few instances of animals wandering into unfenced mining land and drinking water from the mining tailings leading to their death.

SILICOSIS: CHOKING WORKERS FOR GOLD (SOUTH AFRICA)

For decades there has been the issue of miners contracting silicosis in the gold mines because they were forced to work in poor working conditions. Silicosis is an incurable lung disease caused by the inhalation of dust that contains free crystalline silica. Once miners have contracted the disease, mining companies, including AGA, would retrench these miners without compensation. This would lead to many households that were dependant on one income becoming destitute. One miner depicted some of the conditions they were forced to work under. He described that once the mine was blasted with explosives, the miners were sent in without a mask and were then exposed. [28]

In 2006, a former mine employee of AGA, Thembekile Mankayi, took his claim to the High Court for the right to sue AGA for compensation. At the time the legislation only allowed for a former miner to claim compensation if they were suffering from six specific lung infections and even then, they were only entitled to a lump sum based on the level of impairment and not for financial and emotional damages.[29] It was under the Occupational Diseases in Mines and Works Act 78 of 1973 that AGA gave Thembekile R16 320 in compensation after 15 years of work and losing his ability to walk.

Both the High Court and Supreme Court ruled against Thembekile. However, in 2011 the Constitutional Court overturned the judgement and allowed him to claim for compensation. Unfortunately, Thembekile died six days before the judgement was passed by the High Court. Despite the tragedy, this case allowed human rights lawyers to claim a class action for all families that have suffered similar fates.[30] As a result of this victory, a further three years of negotiations between mining companies and miners resulted in an agreement that miners could register for compensation if they suffered from scoliosis or tuberculosis as a result of the work in the mines.[31] A settlement of R5-billion was approved by the High Court in 2019. Miners who claimed compensation started receiving their settlements in March of this year.[32]

This article has highlighted the dire conditions that working people and communities affected by mining have to contend with. Many are dying waiting for justice within the broader context of frustrated human and social progress which contrasts sharply with the profits and wealth generated by corporate giants and their shareholders. The pervasiveness of corporate impunity, the complicity and weakness of state institutions to hold corporations accountable has maintained a condition of underdevelopment in Africa and undermined the exercise of sovereignty in the spirit of self-reliance and autonomy. A regional accountability mechanism that takes this into account and proposes socially embedded systems that are accessible and can arrive at resolutions that are binding and punitive on corporations, can be the way forward. These accountability mechanisms should be implemented by state institutions. It is to this end that the IFAA is leading a transnational research project on environmental and human rights violations of AGA in South Africa, Tanzania and Ghana with our partners Mining Affected Communities United in Action (MACUA) and National Association of Artisanal Miners (NAAM) (in South Africa), HakiMadini (in Tanzania) and the Centre for Social Impact Studies (CeSIS) (in Ghana).

REFERENCES

1 Kassa HW. Box III.3 African feminist resistance and climate change politics in The remaking of social contracts: the promise of human rights. The Remaking of Social Contracts. Feminist in a Fierce New World. Gita Sen, and Marina Durano (editors) Zed Books, 2014

2 United Nations, Secretary-General Proposes Global Compact on Human Rights, Labour and Environment in address to the World Economic Forum in Davos, SG/SM/6881 Press Release 1 February 1999. Available at https://www.un.org/press/en/1999/19990201.sgsm6881.html

3 United Nations Human Rights, Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" framework. Available at http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

4 De Shutter O. The Reform of the Committee on World Food Security: The Quest for Coherence in Global Governance. Rethinking Food Systems. Structural Challenges, New Strategies and the Law, Dordrecht-Heidelberg-New York-London, Springer, 2013. Available at https://cridho.uclouvain.be/documents/Working.Papers/CRIDHO-WP-2013-8-ODeSchutter-CFS-Gol-bal¬Governance.pdf

5 If Rio+ 20 is to deliver, accountability must be at its heart. Available at https://www.ohchr.org/en/hrbodies/sp/pages/openletterrio20. aspx

6 Ibid

7 African Union. African Mining Vision, February 2009. Available at https://au.int/sites/default/files/documents/30984-doc-africa_min¬ing_vision_english.pdf

8 Kockott F. and Hattingh M. Murdered KZN anti-mining activist Fikile Ntshangase to be buried Friday as dispute rages, 2020. Available at https://www.dailymaverick.co.za/article/2020-10-29-murdered-kzn-anti-mining-activist-fikile-ntshangase-to-be-buried-fri¬day-as-dispute-rages/
9 Webster D. Xolobeni activist receives death threat, New Frame, 17 November 2020. Available at https://www.newframe.com/xolobeni-activist-receives-death-threat/
10 Stop Corporate Impunity, 2nd Revised Draft of the Binding Treaty: Global Campaign Statement, 27 August 2020. Available at https://www.stopcorporateimpunity.org/2nd-revised-draft-of-the-un-binding-treaty-global-campaign-statement/
11 Ibid
12 Ibid
13 Robinson. The Globalisation of the South African mining industry, Journal of the Southern African Institute of Mining and Metallurgy, 116:8, August 2016. Available at http://www.scielo.org.za/scielo.php?script=sci_arttex¬t&pid=S2225-62532016000800012.
14 Nassen Smith M, Osborne C, Moolla Z, Turok B. South African gold mining and local procurement in Tanzania and Ghana, UNU-Wider Working Paper, October 2019
15 Ibid.
16 International Council on Mining and Metals. Tanzania: Country Case, The challenge of mineral wealth: using resource endowments to foster sustainable development, July 2007. Available at http://www.icmm.com/website/publications/pdfs/mining-parter¬ships-for-development/rdi_country-case-study_tanzania
17 The New Humanitarian. Tanzanian Farmers Displaced by Mining Live like Refugees, The New Humanitarian, 3 June 2013. Available at https://www.thenewhumanitarian.org/news/2013/06/03/tanzanian-farmers-displaced-mining-live-refugees
18 Ibid.
19 Cedillo Lissner A. Someone Else's Treasure: Tanzania, 2008.
20 The New Humanitarian. Tanzanian Farmers Displaced by Mining Live like Refugees, The New Humanitarian, June 3, 2013. Available at https://www.thenewhumanitarian.org/news/2013/06/03/tanzanian-farmers-displaced-mining-live-refugees
21 Cedillo Lissner A. Someone Else's Treasure: Tanzania, 200
22 Augustine Yaw Asuah and Prince Aboagye Anokye, The Resilience of Mining Communities in Obuasi, as Anglogold Ashanti Shifts Position, Journal of Poverty and Investment Development, 2016.
23 Opoku MP et al. Impact of Mining in Obuasi Municipality in Ashanti Region of Ghana: An Assessment of Human Rights Concerns in Mining Communities, Scholars Journal of Arts, Humanities and Social Sciences 3:9A, December 2015. 1407–15 at 1411.
24 Ibid.
25 Coyle Rosen L. Fires of Gold: Law, Spirit, and Sacrificial Labor in Ghana, University of California Press, 2020
26 Water Bodies in Obuasi and Tarkwa Poisoned, Ghana News Agency, August 2018. Available at https://www.ghanaweb.com/GhanaHomeP¬age/NewsArchive/artikel.php?ID=167022.
27 Madoshi H, Makene, Emel J, Murphy JT. Calling for Justice in the Goldfields of Tanzania, Resources 1, 2012. 6.
28 Bagree S. Coughing Up: Justice for Southern African Gold Mineworkers with Silicosis and Tuberculosis. Association of Corporate Treasurers of Southern Africa, April 2017. Available at https://actsa.org/wp-content/uploads/2017/12/ACTSA-Justice-for- Miners-briefing-Apr-2017.pdf.
29 Ibid.
30 Peacock D, Nagisa Keehn E. Justice Is Long Overdue for the Widows of South African Mineworkers, The Guard¬ian, October 2016. Available at https://www.theguardian.com/global-development/2016/oct/25/justice-long-overdue-widows-south-afri¬can-mineworkers-ruling-silicosis-gold.
31 Omarjee L. Miners can register for silicosis, TB claims online, Mail and Guardian, 20 June 2018. Available at https:// mg.co.za/article/2018-06-20-miners-can-register-for-silicosis-tb-claims-online/
32 Reuters Staff, First claimants paid in South African silicosis settlement, Reuters, 2 March 2021. Available at https://www.reuters.com/article/uk-safrica-mining-silicosis-idUSKCN2AU1FX

WOMEN AND ARTISANAL AND SMALL-SCALE MINING IN AFRICA: A LOOK AT BURKINA FASO, DEMOCRATIC REPUBLIC OF CONGO AND SOUTH AFRICA

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This is summary of a research report prepared for WoMin in Mining Regional Alliance.[1] Artisanal and Small-scale mining (ASM) in Africa is not only an increasingly important economic livelihood activity but also one that provides crucial insights to transformations occurring in the political and economic landscape of the continent in response to conditions of economic, ecological and social reproduction crises. The state's turn to formalisation has been a key instrument used to regulate the sector. However, the challenges arising out of this effort to formalise artisanal mining speaks to how economic strategies and legal frameworks continue to centre large-scale mines, while marginalising the interests and needs of smallholder producers. Women are at the coalface of such policy bias.

Historically, explicit colonial regulations sought to criminalise activities regarded as undermining the interests of emerging large-scale mining corporations. More recently and since the liberalisation of the mining sector on the continent in particular, ASM has been the focus of renewed policy interventions The question of gender relations and the policy measures required to support women in ASM has been also gaining some traction. But this has been done without a coherent and clear approach to address the ecological challenges raised by ASM whilst also ensuring women's livelihoods and wellbeing are protected. This is especially challenging when related to the issue of Gender Based Violence given the criminalised and militarised nature of mining.

To deliberate on the issues raised by women in ASM, this paper undertook an overview ASM in three countries: Democratic Republic of Congo (DRC), Burkina Faso and South Africa. DRC and South Africa, provide important insights into how the mining industry evolved in a manner that externally oriented African economies and undermined ASM and devalued women's work while entrenching existing forms of exclusions from mining itself. Historically, Burkina Faso was relegated as a labour pool reserve in the colonial period. More recently, it is experiencing a gold mining boom which is displacing agrarian based livelihoods as the primary economic activity reproducing similar patterns under the conditions of neoliberal globalisation.

South Africa needs to decriminalise artisanal mining and state interventions that explicitly seek to serve the interests of ASM miners while balancing this with environmental, health and safety concerns. A Draft ASM policy has been gazetted in May this year, opening up possibilities for engagement by the public, including the National Association of Artisanal Miners of South Africa (NAAM) who have been formally consulted by the Department of Mineral Resources and Energy. The context of high unemployment which has been exacerbated by the Covid-19 pandemic remains of huge concern. NAAM has emphasised how ASM has offered an alternative livelihood while also asserting the mineral rights of Africans to control, manage and exploit their mineral resources instead of 'foreign' or 'white owned' multinational corporations. Women are active members of NAAM and are visible in leadership roles, although still a minority.

Decriminalisation remains a demand for which there is consensus in regulating ASM. However, even in contexts where regulations are instituted, criminalisation persists largely due to inappropriate regulations, cost of licensing and bureaucratic red tape. Regulations have to be designed to fit the challenges arising out of the forms of ASM, and specific needs of miners especially women and youth. Regulations that are supportive of ASM can also be oriented to providing services, facilities where processing can be done, formation of cooperatives and associations to also enable access to financing and technical training and the development of appropriate technology. Women are especially best placed to benefit from state led initiatives since programs can be developed to support women as a group to avoid the risks of exposure to unsafe and risky methods of mining, while providing them with training in sustainable ASM techniques and methods, as part of broader support for livelihood alternatives.

GBVF is a complex issue, especially in the violent context of extractivism. While encouraging women to exit from mining is not a solution, it is clear that decriminalisation can ensure it is more likely cases of GBVF can be reported, access to psychosocial care and medical services are also essential. Approaches that seek to prevent GBVF are also needed in ASM sites. In some cases, ASM occurs in areas that are connected to or lead to the formation of informal settlements that do not receive access to social services, such as to water, electricity and sanitation. These services can be provided alongside improved housing conditions, as well as the creation of community spaces where women can also organise autonomously, and regulate welfare in ASM communities. In cases such as DRC and Burkina Faso where policies exist to regulate ASM, it is possible to consider addressing women's exclusion from ASM, and ensuring gender segmentation of labour is also addressed by ensuring women are supported to supervise, manage and be issued licenses to mine with the support from local authorities. Women working in ASM should also have their rights as working women to be protected.

This draws attention to the relevance of ILO Recommendation 204 on the transition from the informal to the formal economy. This policy framework that guides the alliance of the state, employers, trade unions, and more recently the community, is a key policy making instrument. However, ASM is one prickly area that amplifies the challenges of transitioning from the informal to the formal economy. Instead, ASM thrives in conditions of informality, and women who work in ASM (and the informal sector) find the flexible nature of informalised work conducive to balancing work with the burden of care work. However, ILO 204 also prescribes Guiding Principles which include the promotion of gender equality and non-discrimination.

Police reform is also a longstanding and important demand that goes beyond extractives, but has particular implications in mining areas which tend to be located in rural areas where human rights abuses are more likely. Decriminalisation of ASM however, remains an essential precondition to enable these kinds of interventions.

Environmental, health and safety concerns are deeply challenging. Burkina Faso offers an example of a state that has instituted measures to ensure artisanal miners avoid harmful practices. However, the scale of implementation remains limited. The responses of women to the dominance of corporate mining in Burkino Faso provides an understanding of the environmental and social impact of mining, and the complex position occupied by ASM and women in it in the broader industry.

The capacity of the state remains eroded and in as much as NGOs attempt to fill the gap, this can only illustrate the kind of interventions states should be providing. However, DRC shows the state has been intervening largely to monitor and trace mineral resources. Not only has this managed to further exclude women and cut off their ability to eke a living, it serves the interests of mining and technology giants whose interest is in avoiding public and legal backlash for being involved in child labour. African states agenda should not be distorted in this manner especially since policy failure in this respect is first felt by ASM miners, especially women.

On the other hand, ASM has been shown in the Burkina Faso case to have significantly improved consumption patterns in the local economy. Diversification also occurs by those able to invest in ASM and retain significant surplus value. Women in ASM highlight incomes they receive enables them cover cost of keeping households afloat, covering school feels, and food expenses. In the midst of a wave of liberalisation that has displaced and eroded the capacity of workers and the peasantry to earn a living, ASM has in the first instance offered an alternative.

In Burkina Faso's Bomboré, an open pit mine with estimated annual production of 5.2 million tonnes, has been set up by Orezone, a Canadian mining firm. Women in Bomboré are resisting the project by drawing upon their understanding of how the process of dispossession is revealing its true impact on disrupting their livelihoods and quality of life.

> With our farmland disappearing, our villages being relocated to new sites, and compensation offered, we are indeed realizing that the truth was not told to us at the outset. We feel that we have been misled. We now realise that your mining project will make us poorer. Paying for our children's schooling is becoming difficult because of a lack of income, and producing food for ourselves has become another problem… What we are losing, will be gone forever… We were already assaulted by the police because we were panning for gold on your territory.

As grim a situation the above depicts, it also lays a basis for rethinking an approach to structural industrial transformation that does not rely on a privatisation of natural resources, but instead can build on the commons, in a manner that ensures artisanal miners and smallholder farmers can be plugged into downstream linkages. Formalisation itself also needs to be approached differently to centre the needs of ASM miners, especially women, instead of merely constraining their ability to operate through rigid and inappropriate regulations. This is the kind of approach that can place women smallholder producers at the centre of a more holistic and integrated approach from below to intervene in the economy. It also creates a process to renegotiate the social contract with the state, and potentially rebuild its capacity.

NOTES

1 Women in Mining (WoMin) is an alliance of organisations that span the African continent, working alongside national and regional movements and women's organisations, communities impacted by mining and mega-infrastructure development projects to expose the impacts of extractivism on African women and advance women-centred and just development alternatives. WoMin works in 11 countries in West, East and Southern Africa to assert a radical and African ecofeminist agenda in the conversation on the climate crisis, climate justice and ways to protect the future of the planet and its people from corporations, their allied governments and elites in the Global North and South.

TANZANIA'S TAX REFORMS REVIVES THE SPECTRE OF RESOURCE NATIONALISM

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THE BULLDOZER REFORMS THE MINING REGIME

In 2015, when President John Magufuli came into power, he began dealing with corruption head-on in Tanzania. This included cutting some of the benefits that government officials were entitled to as well as weeding out ghost workers in the government.[1] Moreover, Magufuli actively dealt with the concerns Tanzanian's were facing with the multi-national mining companies. The government was of a firm opinion that mining contracts also known as Mining Development Agreements (MDA) had several unconscionable terms that denied Tanzania the benefits that it would have otherwise enjoyed had the MDAs been fair and equitable.[2] Under previous laws, mining companies enjoyed low royalties, highly favourable tax regulation and a largely unregulated extraction and export terms which allowed some mining companies to have landing strips on the mining fields.[3]

The government's stance on the problematic practices of mining multinationals and its intention to more aggressively regulate the sector led it to take regulatory action later in 2015. Tax evasion charges were filed against mining companies such as Acacia Gold, Tanzania's largest gold mining company was charged $190 billion in tax evasion.[4] In addition, the government further issued a ban on the export of copper and gold ore. The ban adversely affected the operations of companies like AngloGold Ashanti (AGA).[5] This raised many concerns from the mining companies about the regulatory uncertainty in the mining industry. Whilst some Tanzanians supported the government's efforts in fighting corruption, others feared that economic war between the state and mining companies would ruin the country's investment climate.

In 2017, two pieces of natural resources legislation, namely the *Natural Wealth and Resources Contracts (Review and Re-negotiation of Unconscionable Terms) Act,*[6] and the *Natural Wealth and Resources (Permanent Sovereignty) Act,*[7] and an amendment to the Mining Act, The *Written Laws (Miscellaneous Amendments) Act*[8] were passed and came into force. The latter laws allow the government to renegotiate whatever terms of the MDAs that the National Assembly considers unconscionable. Moreover, the laws require mining companies to sell more shares to domestic groups as well as the government. These pieces of legislation were enacted to ensure that the people of Tanzania truly realize the benefits of their natural resources, mineral resources being one. However, there is debate about the extent to which this aim has been realised.

Soon after, the government opted to increase tax rates by 18 per cent, however, the option sounded unsustainable. In the year 2019, President Magufuli expressed his deep concerns over the adverse impacts that the newly enacted pieces of legislation have had on the mining industry.[9] The increase in taxes were weighing heavy on the smaller independent miners and as a result, miners were evading taxes. Moreover, the new regulations made Tanzania a less desirable country to invest in when compared to the tax rates of other resource-rich countries. [10] To be able to situate these reforms in the case of Tanzania, its important to analyse its immediate post-independence history.

POST-INDEPENDENCE MINING REFORMS

Following her political independence in 1961, Tanganyika, which later becomes Tanzania following her union with the islands of Zanzibar in 1964, thrived to achieve resources-based development. Resource-based development would mean nothing but the realization of natural resources, mineral resources being one, to foster sustainable development in all dimensions and the well-being of her people.

Amid global Cold War politics and the need to build a country from a group of ethnic communities Tanzania adopted the then celebrated, Arusha Declaration in 1967. This was a document that proclaimed the socialist direction that the government had decided to take in an attempt to bring about economic development. The Declaration sought to create a self-sustaining economy that promoted equal economic standards amongst all citizens. However, it fell short of expectations. The Declaration's objective was to create a socialist state in the best interest of the people. As a result, it brought about the nationalisation of major sectors of the economy.[11] In 1976, the government announced that nine commercial banks, eight import-export firms and seven milling firms were to be nationalised. None of those firms were offered compensation by the government. This nationalism gave a breeding ground for monopolisation and corruption. Moreover, the state was failing to satisfy the social needs of the population and many State-Owned-Enterprises (SOEs) were on the brink of collapse.[12]

In 1979, The Mining Act No. 17 of 1979 (Mining Act),[13] was enacted and was the second piece of mining legislation to be promulgated into law by the independent Tanzanian government, following the Mining (Mineral Oil) Amendments Regulations of 1962.[14] The 1962 mining legislation transferred all powers to grant mining licences and leases to the Minister responsible for Commerce and Industry.

The 1979 Mining Act continued to support the Arusha Declaration in making provision for the nationalisation of the mining industry. It vested the mining rights with the State Mining Cooperation (STAMICO), a government enterprise holding control over all mines.

As a consequence, the state-planned economy led to various catastrophes, one being an unattractive investment environment. The available studies point out that Tanzania's mining industry greatly deteriorated from the 1980s to the 1990s.[15] The deteriorated investment environment in the mining industry was mainly caused by the unwelcoming legal and policy frameworks in place.[16] Furthermore, during this period Tanzania began to transition away from the command economy envisioned in the Arusha Declaration and legislation discussed above. This transition to a more liberal or free-market economy also brought about significant.[17]

Notably, it was during the mid-1990s that Tanzania secured MDAs with foreign investors and Bilateral Investment Treaties (BITs) for the first time in her history.[18] The government was successful in garnering international interest in its mining economy and managed to sign a few MDAs such as the first being signed on 5 August 1994 with Bulyanhulu Gold Mine Limited.[19] However, some of these were signed before there was legislation governing them. As a result, when the Mining Act of 1998 came into effect in 1999 it had no retrospective authority, meaning that these MDAs were not governed by it.

Despite the legal and policy reforms that took the country to a free-market economy, there was a public outcry concerning the new regulation of the mining industry. The public outcry was fuelled by two main reasons. The first had to do with the opacity that surrounded mineral governance since the government had never disclosed which MDAs had been signed. The second had to do with the perception that the liberal economic reforms would not allow the people of Tanzania to benefit from their mineral resources. The mining industry was cited to have failed to transform the lives of the people.

It was due to such reasons, and perhaps other minor reasons not mentioned, that Tanzania's government started to make further reforms in the mining sector. The new reforms included the adoption of the Mining Policy in the year 2009 followed by the enactment of the Mining Act in the year 2010. The Mining Act, 2010 has sustained several amendments and is the governing Act to date. This act increased royalties of minerals, royalties in gold minerals for example was increased from 3 to 4 per cent[20] and also required the government to have a stake in future projects.[21]

Despite a strong wave of reforms that extended to fiscal policy, the people of Tanzania were not satisfied with the regulations and neither was President John Magufuli who was once quoted saying that; *"Tanzania has a lot of minerals, but there have been a lot of funny deals…we have to look carefully at our laws so that we move forward as a country".*[22]

Following the president's statement three new pieces of legislation were enacted in 2017. The new laws, which will be discussed in detail further below, have led to a backlash and protest from the mines within Tanzania.

LEGISLATION REFORMS AND BACKLASH

Tanzania's mining industry is currently regulated by the Mining Act which was passed in 2009 and came into effect in 2010. The Mining Act, 2010 has sustained some amendments. These amendments were all brought together in 2019 and thus the Act is referred to as the Mining Act, 2010 [Cap 123, RE: 2019]. As mentioned earlier, the Act had financial implications for mining companies in Tanzania. Previously, gold mines were exempted from corporate tax and enjoyed zero-rating tax at different levels of the development chain. [23] The 2010 Mining Act revised the royalties and taxes policies and imposed regulations that would, in theory, be beneficial to the government and the citizens of the country. However, and notwithstanding the new legal and policy environment brought up by the Mining Act, 2010, the available literature points to the fact that the Act had denied Tanzania full realization of her mineral resources while creating a ground that favours investors, mostly foreign investors, at the expense of the poor communities involving in small scale mining.[24] Moreover, the gaps within the laws cemented corruption as government officials were often found to be colluding with the major foreign companies.[25] President Magufuli's pledge to deal with corruption in 2015 and the increasing number of cases filed against the allegedly corrupt actors in the mining sector, were the catalyst of the new laws introduced in 2017. Yet despite this promise, the reality has shown that corruption is still a significant problem.

REVIEW AND RE-NEGOTIATION OF UNCONSCIONABLE TERMS

After the *Review and Renegotiation of the Unconscionable Terms* Act[26] and *Permanent Sovereignty* Act (as cited earlier), another two regulations were issued. The newly issued regulations, among other things, allowed the government to revise any mining contract in existence. The aim was to ensure that the government has a greater share in the revenue of these companies.

The Natural Wealth and Resources Contracts Act 2017 Act mandates the Government to renegotiate or expunge terms from investor-state agreements that the National Assembly considers *"unconscionable"*. The MDAs that had been entered into before the 1998 Mining Act came into effect had never been reviewed or renegotiated as they were always protected even in instances of mergers and acquisitions. According to Article 63(2) of the Tanzanian Constitution,[27] the National Assembly may review any arrangements or agreements made by the government. The Act requires that the government report such agreements entered into by the Tanzanian government within six sitting days at the National Assembly.[28]

The National Assembly must assess whether investor-state agreements contain terms which "jeopardise the interests of" Tanzania or its people. The Act identifies eleven types of terms that "shall be deemed to be unconscionable", including those that aim to restrict the right of the state to exercise full permanent sovereignty over the country's wealth, natural resources and economic activity, the state's authority over foreign investments, or are onerous to the state, and restricts periodic reviews of arrangements or agreements which purports to last for a lifetime.[29]

If the National Assembly considers an agreement (or terms within it) "unconscionable", it may instruct the Government to renegotiate the agreement. This also applies to MDAs that have been entered into before this Act came into effect,[30] meaning that the government could revise any MDAs to date. Once the Government notifies the investor of this instruction, the parties have ninety days to revise the "unconscionable" terms unless, by mutual agreement, both parties agree to extend the negotiation period. If they fail to negotiate within the ninety days or agreed period they will be deemed as removed from the agreement.[31]

The amended mining laws were a necessary measure to make sure that Tanzanian people start to see the benefits from the sector, however, the new laws placed heavier restrictions on international companies and some claimed they were too heavy. For instance, the requirement that all companies should be 51% owned by Tanzanians, however, this was amended in 2019 to 20% to make it easier for international companies to operate locally. The laws may have a deterrent effect on foreign investors as they had before the 1990s, but the changes are necessary and cannot be avoided. It is evident that the government does not want to deter the international investor and is willing to make amendments but not amendments that would be detrimental to the Tanzanian people. There have been successes on the clampdown approach that the government has taken, such as weeding out and holding companies that have not been tax accountable. The laws are not without fault, but this shows that the government is on the right track.

Box 1 – Tanzania Amendment Acts

a. Natural Wealth and Resources (Permanent Sovereignty) Act, 2017

This Act included two United Nations General Assembly Resolutions in its schedules;

- *Resolution 1803 (XVIII) of 14 December 1962, also known as the "Resolution of Permanent Sovereignty over Natural Resources" (RPSNR)* – Passed during a period where many states were trying to establish independent economies after coming out of World War II. This RPSNR allows for the hosting state to nationalise and expropriate the property of foreign investors, however, it also seeks to afford the investors a level of protection by providing that the compensation payable should be determined per the laws of the hosting state and international law.
- *Resolution 3281 (XXIX) of 12 December 1974, also known as the "Charter of Economic Rights and Duties of States" (Charter)* – In contrast to the RPSNP, The Charter gives the hosting state the same authority to nationalise and expropriate the property of foreign investors, however, it states that compensation should be determined only according to the laws of the hosting state and not international law.

Tanzanian took in the provisions of both resolutions thus the Act expressly provides that compensation will be calculated according to Tanzanian law, which could be lower than the international standard. Furthermore, the Act refers to the fund and prevents the repatriating of funds, it states:

(1) Any arrangement or agreement for extraction, exploitation or acquisition and use of natural wealth and resources shall require that earnings from disposal or dealings be retained in the banks and financial institutions established in the United Republic.

(2) For the purpose of subsection (1), it shall be unlawful to keep such earnings in banks or financial institutions outside the United Republic except where distributed profits are repatriated in accordance with the laws of Tanzania.

Section[32] 12 of the same Act holds that any arrangement of the agreement dealing extraction of national wealth or resources should be reviewed by the National Assembly, meaning that should the Parliament deem it to be *"unconscionable"*, the terms[33] would need to be revised. As a result, foreign investors are not free to extract funds or export raw resources unless it has been approved by the National Assembly.

b. The Written Laws (Miscellaneous Amendments) Act, 2017

This Act filled in some of the gaps that were in the other Acts and clarified more of the benefits that the Tanzanian government would receive. Some of the amendments included the amendment to Section 10 of the Mining Act to not state;

- "[i]n any mining operations under a mining license or a special mining license, the Tanzanian Government shall have not less than sixteen per cent non-dilatable free-carried interest shares in the capital of the mining company depending on the type of minerals and the level of investment".

In addition[34] to this free-carried interest, the Government shall be entitled to acquire up to 50% of the shares of the mining company.

These[35] amendments led to AngloGold Ashanti pursuing mediation with the government. However, the results of this enquiry are unknown.

Further Amendments have been considered this year in the Mining Act Amendment Bill, which has been passed by parliament and is awaiting accession by the President. The proposed Bill has key features that will help in ensuring a more transparent process of the mining sector in Tanzania.

1. The Bill provides definitions that had not been provided in the Act, definitions to terms such as "mineral ore" or "tailings"
2. It provides for stricter requirements to obtain a mining licence. They also need to provide clearance of the tax as well as clearance of all necessary payments
3. If also put a cap on the penalties payable for an infringement of the regulations relating to mineral rights holders. The cap has been placed to between 5 - 10 million shillings (about R32000 – R630000), which is low considering the value of the minerals being dealt with.

ANGLOGOLD ASHANTI ARBITRATION

The Permanent Sovereignty Act, the Miscellaneous Amendments Act and the Review and Renegotiation of the Unconscionable Terms Act came into effect in January of 2018. In February of the same year, AGA voiced issues it had been facing with the government in terms of getting tax returns. Their tax returns would range from $3 – $4 million a month[36] by March 2018, they had reached an estimated $84 million.[37] In protest to the new laws that came into effect, the company's two indirect subsidiaries, Geita Gold Mining Limited and Samsex Resources Limited filed a notice for arbitration.[38] Their claims were based on the Agreement for the Development of a Gold Mine at Geita, Mwanza between the government of Tanzania and each of GGM and Samax (the MDA) signed in 1999 and were brought in terms of the arbitration rules of the United Nations Commission on International Trade Law.

The company's main concern is the change in the working environment that will result from these laws coming into effect. These changes include the right for the Government of Tanzania to renegotiate existing MDAs at its discretion; the provision to the Government of Tanzania of a non-dilatable, free-carried interest of not less than 16% in all mining projects; the right for the Government to acquire up to 50% of any mining asset commensurate with the value of tax benefits provided to the owner of that asset by the Government of Tanzania; removal of the refund of input VAT incurred; an increase in the rate of revenue royalties from 4% to 6%; requirements for local beneficiation and procurement; and constraints on the operation of off-shore bank accounts.[39]

The full contents of the MDA signed by AGAs subsidiaries, Samax Resources and Geita Gold Mining, in the 1990s have not been fully disclosed to the public, the company has revealed that they are disputing one clause in the MDA which guarantees fiscal and regulatory stability, as well as the agreement between all parties before material legal and regulatory changes, are made.[40]

Although the arbitration proceedings have begun both parties requested that it stayed until 12 July 2019,[41] which has now been further postponed to January 2020.[42] There have been no official reports on the outcome of this arbitration, however, there have been unofficial claims that AGA dropped the arbitration and reached an agreement with the Tanzanian government the contents of which have not been disclosed to the public.

HAVE THE REFORMS WORKED?

Despite the resistance and the expected initial backlash from many of the mining companies that already had MDAs when the laws were changed, the Tanzanian government was able to use the new legislation to place themselves in a better position. As a result, they were able to negotiate better MDAs with more shareholdings for the government and investigate tax evasion issues. In some instances, licenses were revoked and the land was opened up to more artisanal miners, who were failing to compete under previous laws. The laws seem to have had initial success in some areas, however, there is no doubt that the government is still willing to negotiate where necessary and there will most likely be further amendments to the Acts as circumstances change.

On the other hand, the laws do not address the leadership concerns such as corruption and transparency, a problem that has led to heavy consequences in the past and is still a problem today. At the moment, the content of the MDAs are not made public, which means the Tanzanian people especially the mining communities are not informed about how these MDAs are benefiting them, if at all. One of the main driving forces of changing the laws was to ensure that Tanzanian people see the fruits of mining, but without transparency fair processes are not protected, which undermines the peoples interest.

REFERENCES

1 Dzimwasha T. Magufuli's High Stakes Gamble, African Business, August/September 2017. 84-85.
2 Ibid.
3 Woodroffe N, Genasci M, Scurfield T. Tanzania's New Natural Resources Legislation: What Will Change?, Natural Resource Governance Institute, 2017
4 Reuters Staff UPDATE 2. Tanzania charges Acacia subsidiaries with tax evasion, corruption, October 2018. Available at https://www.reuters. com/article/acacia-mining-tanzania-corruption-idUSL8N1WX61U17
5 Mtulya A. Five things Tanzania's President 'Bulldozer' Magufuli has banned, BBC, 5 March 2019. Available at https://www.bbc. com/ news/world-africa-47334545
6 Review and Re-negotiation of Unconscionable Terms Act 6 of 2017.
7 Permanent Sovereignty Act 3 of 2017.
8 Miscellaneous Amendments Act 4 of 2017.
9 The Citizen Magufuli gestures for relaxation of tax regime in mining, 23 January 2019. Available at https://www.thecitizen. co.tz/News/Magufuli-gestures-for-relaxation-of-tax-regime-in-mining/1840340-4947170-s3en4g/index.html
10 Scurfield T, Olan'g Magufuli S. Seeks the Right Balance for Tanzania's Mining Fiscal Regime, 31 January 2019. Available at https://resourcegovernance.org/blog/magufuli-seeks-right-balance-tanzania-mining-fiscal
11 Dias C. Tanzanian Nationalizations: 1967-1970, Cornell International Law Journal 4, no. 1, Fall 1970. 59–79 at 63.
12 Ngowi HP. Economic Development and Change in Tanzania since Independence: The Political Leadership Factor, African Journal of Political Science and International Relations 3, no. 4, May 2009. 259–67 at 262 - 63.
13 Mining Act No. 17 of 1979.
14 GN. No. 478 of 1962.
15 Chimhete N. Prosperity In A Crisis Economy: The Nyamongo Gold Boom, Tanzania, 1970s–1993, Journal Of Eastern African Studies Issue 14 Vol 3, 2020. 572-589
Lissu, TA. In Gold We Trust: The Political Economy of Law, Human Rights and the Environment in Tanzania's Mining Industry, Law Social Justice and Global Developmental Journal, Issue 2, 2001.
16 Ally Sinda A. Legal Issues Arising From a Review of Mining Development Agreements in Tanzania, International Lawyers For Africa. Available at https://www.ilfa.africa/legal-issues-arising-from-a-review-of-mining-development-agree¬ments-in-tan-zania/
17 Nassen Smith M, Osborne C, Moolla Z, Turok B. South African gold mining and local procurement in Tanzania and Ghana, UNU-Wider Working Paper, October 2019
18 Ally Sinda A. Legal Issues Arising From a Review of Mining Development Agreements in Tanzania, International Lawyers For Africa. Available at https://www.ilfa.africa/legal-issues-arising-from-a-review-of-mining-development-agree¬ments-in-tan-zania/.
19 Ibid.
20 Section 87(1) of the Mining Act 2010.
21 Ng'wanakilala F. Tanzania Seeks More Benefits from Resources, Business Day, 7 November 2016.
22 Ibid.
23 Muganyizi TK. Mining Sector Taxation in Tanzania, International Centre for Tax and Development, August 2012.
24 Lissu, TA. In Gold We Trust: The Political Economy of Law, Human Rights and the Environment in Tan¬zania's Mining Industry, Law Social Justice and Global Developmental Journal, Issue 2, 2001
Moloo Z. Local miners left out by Tanzania gold rush, Aljazeera, 8 June 2013. Available at https://www.aljazeera.com/ indepth/featur es/2013/05/2013515161130258616.html..
25 Chatterjee P. Tanzanian Officials Arrested For Failure to Publish Natural Gas Contract Details, CorpWatchBlog, 7 Novem¬ber 2014. Available at https://corpwatch.org/article/tanzanian-officials-arrested-failure-publish-natural-gas-contract-details
26 Review and Re-negotiation of Unconscionable Terms Act 6 of 2017.
27 The Constitution of the Republic of Tanzania.
28 Section 5(1) of the Review and Re-negotiation of Unconscionable Terms Act, 2017.
29 Section 6(1) of the Review and Re-negotiation of Unconscionable Terms Act, 2017.
30 Section 5(3) of the Review and Re-negotiation of Unconscionable Terms Act, 2017.
31 Section 5 of the Review and Re-negotiation of Unconscionable Terms Act, 2017.
32 Section 10 of the Natural Wealth and Resources (Permanent Sovereignty) Act, 2017.
33 Section 5 of the Review and Re-negotiation of Unconscionable Terms Act.
34 Section 9 of the Miscellaneous Amendments Act, 2017.
35 Section 9 of the Miscellaneous Amendments Act, 2017.
36 Stoddard E. AngloGold maintains production guidance, in talks with Tanzania, Reuters Johannesburg. Available at https:// af.reuters.com/article/investingNews/idAFKBN1I90LL-OZABS
37 Stoddard E, Aruo P. AngloGold says owed $150 mln in taxes by Tanzania and DRC, Reuters. Available at https://www. reuters. com/article/ozabs-uk-anglogold-ashnti-results-taxes-idAFKBN1I91EM-OZABS
38 AngloGold Ashanti, Report to the United States Securities and Exchange Commission, 29 March 2019. 217
39 AngloGold Ashanti, News Release: AngloGold Ashanti Comments on Passage of New Legislation in Tanzania, 13 July 2017
40 Njobeni S. AngloGold Ashanti to take issue with Tanzania, Independent Online, 9 May 2018
41 Ibid.
42 AngloGoldAshanti, June 2019 Interim Report, 30 June 2019

INSTITUTIONAL GAPS IN TANZANIA'S ENVIRONMENTAL REGULATIONS

By Esther Somi

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Historically, Tanzania has primarily had an agrarian based economy, with the mining sector growing in significance more recently. The National Bureau of Statistics stated mining contributed 15.3% in the first quarter of 2020 due to reforms introduced by the government.[1] The main mineral commodities that had an impact on growth were gold and silver production. Reforms introduced by government included revoking licenses of corporate mining entities to enable small scale miners take up concessions in the Northwestern part of Tanzania.

The expansion in mining operations, whether small or large-scale, are inherently disruptive to the environment producing enormous quantities of waste that can have deleterious impacts for decades. Artisanal and small-scale mining (ASM) plays a vital role in mining employment and sustaining livelihoods in Tanzania. For example, ASM employs more than 1,000,000 Tanzanians.[2]

Despite its economic relevance, ASM is associated with the most adverse impacts on the environment as well as health and safety risks. ASM activities largely depend on the use of rudimentary technology that leads to environmental degradation. For instance, soil and water pollution, is closely associated with leakage/unhealthy discharge of mining chemicals including mercury.[3] Large-scale mines also have an environmental impact; from open-cast mining (whereby extraction takes place close to the surface across wide areas), to the dumping of toxic waste in river bodies, Acid Mine Drainage, polluting the air, and long-term health impacts on mineworkers and mine communities. This makes it absolutely essential to have a regulatory framework that ensures public participation in environmental regulation.

In response to environmental degradation, and a call to protect human health and biodiversity, Tanzania has ratified several International Agreements such as the Minamata Convention on Mercury, 2013 and enacted several pieces of legislations and their subsequent regulations. These include the Environmental Management Act, 2004, the Mining Act, 2010 and the Mining Safety, Occupational Health and Environmental Protection Regulations Act, 2010.

Notwithstanding the laws in place and the existence of enforcement machinery such as Local Government Authorities, the Mining Commission, and the National Environment Management Council (NEMC), there is less environmental standards compliance in ASM. It has been noted that the lack of compliance is as a result of unharmonized legal and institutional framework mandated to regulate ASM operations.[4] In addition, the institutional framework that governs the Mining Sector in its entirety is not suitable for ASM thus emphasizing the need for sustainable innovations that respond to the specific needs of ASM.

Additionally, weaknesses of the governing institutional framework extend to data collection and management. To date, the government of Tanzania does not have good estimates on the number of small-scale miners in the country. For instance, the gold-rich district of Geita alone, where I have conducted fieldwork extensively, is approximated to have more than 150,000 small-scale miners, most of whom are not legally registered and do not own miners' license. Since there is no record of most of the miners, they remain invisible to the district authorities, government departments and relevant ministries.

The Mining Act, 2010, *inter alia*, exempts small-scale miners from conducting Environmental Impact Assessment (EIA). The Act provides that an application for Primary Mining License (a license for ASM) be supported with Environmental Protection Plan (EPP). Contrary to EIA, EPPs are too narrow in scope, less environmentally sensitive and the process to their preparation is less participatory to a broader audience. For instance, there is inadequate participation of local communities who would otherwise be affected by mining operations. This limits the space for the community to hold ASM accountable for environmental degradation.

Surprisingly, the Environmental Management Act of 2004 has no express provision for EPPs. The omission of EPPs in the Environmental Management Act, 2004 provides room for the Ministry responsible for minerals to regulate compliance of environmental standards in ASM. However, the core objective of the Ministry of Minerals is promotion of investment in the mining sector. The Ministry and its associated authorities such as the Mining Commission are less environmental sensitive.

Moreover, since EPPs are provided by the Ministry of Minerals and Mining Commission they are supposed to be publicly accessible. However, the right to access them is hardly exercisable since the law is silent on who exactly has the duty to get them into the public domain. The Mining Act, 2010 strives to promote sound environmental management principles such as public participation and the precautionary principle.[5] Both principles are reflected with a requirement to conduct and be issued with the EIA certificate pursuant to the Environmental Management Act, 2004, before lodging an application for the Special Mining License and/or Mining License as per the Mining Act, 2010.[6]

Yet even though local communities are consulted in preparation of EIA reports, community participation is of no effect if the community is denied access to remedies when their inputs are disregarded or if mitigation measures in the EIA report are of no value to their environment.

The Environmental Management Act establishes the environmental Appeals Tribunal,[7] and vested with it the jurisdiction to preside over appeals against issuance of the EIA certificates.[8] To date, seventeen years from its enactment, the tribunal is nowhere to be found. Again, the mining and/or environmental laws do to provide for a specific forum to which one/communities may object EPPs.

The absence of the Environmental Appeals Tribunal has denied the public its rights to a process of regulating the environmental impacts of the mining sector. Since the Tribunal has not been established yet, this has technically closed off the possibility of appeals from the Tribunal to be laid before courts, especially the High Court.[9]

The growth of the mining sector in Tanzania has emphasized the urgency to create an accountability mechanism that is inclusive, accessible and functional. The institutional gap for an inclusive process to address environmental concerns, and the connected human rights issues, arising out of mining operations, is alarming. This emphasizes the need for advocacy and campaigns to take up this institutional gap in Tanzania. It also emphasizes the potential strategic value of a regional mechanism that can be accessible and responsive to environmental concerns of communities.

REFERENCES

1 Stephens, L. Tanzania's Mining Sector contributes 15% to GDP in 3 months, African Mining Market, 2020. Available at https://africanminingmarket.com/tanzanias-mining-sector-contributes-over-15-to-gdp-in-3-months/7375/
2 Mutabwaba W. et al. Artisanal and small-scale mining in Tanzania-Evidence to inform an 'action dialogue', Research Report, IIED, London, 2018
3 Vice President Office, Division of Environment, State of the Environment Report (3), Published by Permanent Secretary, Vice President's Office, Dodoma, Tanzania, 2019
4 Institute of Business and Human Rights. Human rights in Tanzania's extractive sector: exploring the terrain, published by IHRB, London, United Kingdom, 2016. p46.
5 Section 107 of the Mining Act, 2010
6 Section 41 and 50 of the Mining Act, 2010, respectively.
7 Section 204 of the Environmental Management Act, 2004.
8 Section 206, supra.
9 Section 209, supra.

RETURN OF ANGLOGOLD ASHANTI: WILL OBUASI RISE AGAIN?

By Richard Ellimah

Richard Ellimah is a Ghanaian community activist, journalist and researcher and one of the founders of the Centre for Social Impact Studies (CeSIS).

In January 2019, Obuasi, an ancient gold mining city in Ghana, came alive with the official reopening of the Obuasi mine of AngloGold Ashanti. The mine had been under “care and maintenance” since 2014 when management announced its temporary closure.[1] According to the company, three key reasons necessitated the temporary shutdown. First of all, underground infrastructure, much of which was constructed over 50 years ago had not seen any significant rehabilitation, putting the lives of the workers at risk. Second, the mine was deemed to be unprofitable. Overhead costs were ballooning, while gold prices kept falling to unsustainable levels.[2] Finally, the productivity of the workers was also called into question. Despite everything the management did, productivity as measured by ounces of gold mined per month kept going down and this became a source of worry for the owners of the mine.

For the five years that the mine was out of operation, the Obuasi community experienced probably its worst economic crisis. The danger of mining communities becoming ghost towns became a reality. Over 6,000 workers of AngloGold were retrenched, and most of them left town to other parts of Ghana. These people sold their houses and other property, shut down their businesses and withdrew their wards from some of the most prestigious private schools in town. The result of this was a city that became a pale shadow of its former glory. The beautifully well-planned company bungalows were left to rot, providing shelter for reptiles.

The once bustling Obuasi Central Market became a scene of dejected and despondent faces of women traders who bemoaned that they had seen better days. Anyinam Roundabout, which had become the entertainment hotspot of Obuasi suddenly, became quiet. The characteristic loud blaring music had been silenced and replaced by the chirping of exotic birds perching on the trees that lined the main street.

Signs of decay were everywhere, not least in the Central Business District of this once Golden City as luxury shops closed. A slowdown in economic activities also negatively affected the revenues of the Obuasi Municipal Assembly. A study conducted by Centre for Social Impact Studies (CeSIS) in 2017 revealed that the Municipal Assembly saw an almost 30 per cent drop in revenues as a result of the company’s troubles (NRGI, 2017). Because the company was not operating, mineral royalty, which was a major component of the Assembly’s revenues, also ceased.

News of the successful signing of a new Mining Agreement between AngloGold Ashanti and the Government of Ghana[3] was therefore most welcome news. The signs of jubilation that greeted the President, Nana Addo Dankwa Akufo-Addo, and the traditional overlord of the Asante Kingdom, Asantehene Otumfour Osei Tutu II and other dignitaries on that hazy January day during the official reopening of the mine were indications of relief at last that Obuasi will rise again. Expectations were very high, even unrealistically high. For once, the people heaved a sigh of relief that the golden days of Obuasi were coming back.

Young graduates knew this was going to be their best chance at getting employment in this multinational giant they had lived with for the past 122 years. A caller into an animated discussion programme on one of the local radio stations even asked AngloGold Ashanti to, convert Obuasi to the Johannesburg of West Africa before the expiration of their 25-year operations!

In as much as the expectations are justified, considering what the city has gone through, it remains to be seen whether Obuasi will become Johannesburg after the end of the current mine lease. Three factors come to play here if Obuasi will become the giant that all dream about Diversification, linkages and value addition.

DIVERSIFICATION

Managers of the local economy, Obuasi Municipal Assembly and Obuasi East District Assembly, must make very hard choices about whether it makes good economic sense to hinge the local economy on one mining company. Since 1897 when the then Ashanti Goldfields Corporation started operations, the Obuasi economy has basically been tied to the fortunes of the company. Whenever the company goes through challenges, it affects the health of the local economy. The 2014 – 2019 episode gave a glimpse of the future of Obuasi after the gold is gone.

Rather than being ecstatic over the return of the mine, it would be useful to set in motion a process that will ensure the creation of additional industries to AngloGold Ashanti. For instance, within the mining sector, we could have additional mining companies (both small and large scale) beyond AngloGold Ashanti. We could also tap into our tourism potential to make money for the Municipality.

Of more particular interest is mine tourism that is fetching millions of dollars for countries like Australia and South Africa. The abandoned mines dotted around Obuasi and its environs could be developed and converted to tell the history of mining in Obuasi. Another alternative is to construct a Museum of Gold that will detail the history of gold mining in Obuasi, using audio-visual materials and photographs. Obuasi also has potential for light manufacturing industries as well as food processing. The two assemblies have a responsibility to ensure these potentials are exploited to reduce this heavy dependence on AngloGold Ashanti.

LINKAGES

A major challenge of natural resource dependent economies is their inability to develop linkages with the wider economy. The mining industry tends to be a standalone economy. It has been described as an “enclave industry”.

A good example of mining being an enclave economic activity is the practice where mining companies choose to house their workers in demarcated staff quarters. These company housing estates are usually far better planned with all essential amenities like electricity, water and sanitation facilities. Due to this advantage, the company housing has over housing in the township, there is very little motivation for homeowners to improve the quality of the housing stock. For instance, there has been an argument that if company workers were to be renting houses in town, they could force homeowners to improve the quality of housing. Amazingly some company workers had their families buying their groceries from Kumasi, the capital of the Ashanti Region, 61.1 kilometres from Obuasi. This clearly deprived the market women traders in Obuasi or the shop owners of some potential income.

Linkages in the mining sector can be observed through the creation of employment opportunities for local community members, and supply opportunities for local businesses. AngloGold Ashanti expects to employ a maximum of 2,500 workers, mostly contract workers. The key question is: how many of these workers will come from the local communities? The company has rolled out a

Local Employment Policy that will see all semi-skilled and unskilled labour coming from the communities. This is a requirement that all contractors of the company are mandated to implement. Furthermore, the company should give out purchasing and supply contracts to local businesses. Instead of going to Kumasi to purchase rice for workers, the company can make a deliberate effort to purchase them from the women in the market. The benefits of buying locally and from women traders are enormous!

VALUE ADDITION

The last element is value addition. In the mining sector, not much value addition is done. All multinational companies in Ghana refine their gold outside the country where they sell them. Is it possible for AngloGold Ashanti to leave a percentage of its gold locally to support the goldsmith business? The local goldsmith business used to be very vibrant up until the 1980s. They supplied the gold jewellery that was used for social events like festivals, weddings and funerals. While the goldsmiths worked on the jewellery, the women also hawked them in the surrounding villages. It was a sense of pride for every family to have gold jewellery that was passed on from generation to generation.

It was common in traditional circles for jewellery to be given to female family members who were going to get married. After the marriage, the jewellery was kept back till another family member is ready to marry.

The biggest market for gold used for jewellery is the small-scale mining sector. Currently, all the gold that the few goldsmiths use is sourced from small-scale miners. Since 1989 several attempts have been made to regularise the small-scale mining sector. This has involved the passage of Regulations like the Small-Scale Mining Law in 1989, and other initiatives. Unfortunately, however governments' actions over the years have betrayed this sense of commitment to the sector as small-scale miners keep being criminalised. Regularising the operations of these small-scale miners will ensure they can also feed the goldsmith industry, and ultimately the jewellery business. This measure will save the country badly needed foreign exchange used to import jewellery from India and China.

OPPORTUNITY TO MAKE IT RIGHT!

During the period of the crisis from 2014 to 2019, all stakeholders in Obuasi's development had an opportunity to reflect and think through strategies to ensure the city is saved from any future calamity. Gold is a finite resource. One day we will deplete our reserves. Again, the price of gold on the international market is very volatile. One day the price of gold may plummet to levels that will not make it profitable for AngloGold Ashanti to keep operating. Or, we may encounter a situation like what happened in February 2016 when illegal miners overrun the underground facility of the company virtually making it impossible for the mine to operate. When any of these scenarios play out, what will happen to Obuasi? Do we have a strategy for "Obuasi Beyond Mining"? If we don't, then there is no better time to start thinking of something like that. The gold will finish. But Obuasi must survive!

REFERENCES

1 AngloGold Ashanti, Obuasi Redevelopment Project, May 2019. Available at https://thevault.exchange/?get_group_doc=143/1558972797-ObuasiInvestorPresentation2019.pdf

2 The Northern Miner, AngloGold Ashanti faces challenges at Ghana mines. Available at https://www.northernminer.com/subscribe-login/?id=1000193369

3 International Mining, AngloGold accord with Ghana over Obuasi redevelopment. Available at https://im-mining.com/2018/02/22/anglogold-accord-ghana-obuasi-redevelopment/

THE STRUGGLE TO HOLD A MINING GIANT ACCOUNTABLE: THE VIEW FROM MARGARET VILLAGE

To introduce this article Dr Hibist Kassa provides background information on Margaret village. New Agenda spoke with Papiki Shawn Lethoko, a social justice activist in Margaret Village who is also the chairperson of the National Association of Artisanal Miners (NAAM) and a member of the Mining Affected Communities United in Action (MACUA).

Margaret Village is a mine host community in Stilfontein, in North West Province of South Africa, that emerged around the Margaret mine shaft. The mine shaft has been operational since 1945 and was named after the sister of Queen Elizabeth. Located in a water scarce area with a long history of migration drawn from neighbouring states and rural areas to gold mining, it is a small community with a proud and dynamic history of mining in South Africa.[1]

The legacies of colonialism and apartheid are an everyday reality for communities who struggle to access clean potable water, and who are at the coalface of unemployment and precarious livelihoods. Acid Mine Drainage (AMD) is a deep crisis in these older gold mines which have polluted potable water resources and compromised the health of poor and working class. The increased population pressure had an impact on scarce water supply with residents also being relocated to 'dangerous' areas with underlying dolomite and other risks to health and wellbeing.[2]

In a 2006 court case between the Ministry of Water Affairs and Forestry and Stilfontein Gold Mining Company and Others, the court concluded that: "… water found underground at Margaret Shaft, are to be collected and removed to surface, treated to comply with general effluent standards specified …*and either re-used in a legal and approved manner, or discharged into the environment in a legal and approved manner*". [3] This was described by the Centre for Environmental Rights remarked this was '*an outstanding example* of the kind of judicial approach that is needed if we are to develop a *robust* mining and environment jurisprudence in South Africa'.[4]

It is on the basis of this ruling that the Margaret Water Company was established to purify the AMD drawn from Margaret Shaft. The underground water was not only undermining operations of other gold mining firms, including Harmony and AngloGold Ashanti, but also polluting the water supply in the area. This placed greater pressure on the availability of clean potable water for the use of the communities living in Margaret Village and Khuma, a nearby township.

In 1979, CHEMWES, a uranium plant that extracts uranium and at times, gold, was established in Stilfontein to reprocess the tailing storage facilities. AngloGold Ashanti took over ownership of CHEMWES in July 2012, and additional plants were commissioned in 2014. [5] The Kareerand Tailings Storage Facility (TSF) for CHEMWES[6] has become a focus of communities affected by mining whose proximity to the tailing storage facility has raised heath concerns due to the reclamation operations.

Also, artisanal miners whose livelihoods depend on extracting gold from TSFs are being affected since CHEMWES is extracting gold that sustains their livelihoods in conditions of high unemployment and precariousness.

THE VIEW FROM MARGARET VILLAGE

I reside in Margaret village, living with my partner Eugenie van Rooyen [who is also a member of Women Affected by Mining United in Action], raising our three children who are the fourth generation from my grandfather. He worked at Margaret mine Shaft, and as a result of lung illness, died in 1983.

Margaret community is not owned or controlled by any firm and is an old native community consisting of indigenous black families even before the start of mining gold in Stilfontein 'Natives' occupied this land and our grandparents died working on this shaft. The community is still occupying the land, though it has evolved and suffered destruction to their livelihood and of their natural environment, disruption of culture, exposed to pollution and health risks. CHEMWES and Margret Water Company are well known as well as AngloGold Ashanti (AGA), and now Harmony, as conducting their business on Margaret Village soil.

Despite the fact that the community lives below the line of poverty and illiteracy. Currently, the community hosts an annual social event on 16 December as a reunion to commemorate the existence of this historic community. The event attracts former residents as far as from the neighboring provinces to meet only to enjoy and reminisce the good old days and also for cultural and spiritual purposes.

Margaret Village used to have top of the range infrastructure. There was a Guest House, Stadium, Tennis Courts, Train Station, a Shopping Complex, Laundry Service, Sub Clinic, etc. But now, all that has disappeared into thin air. These facilities and other streets were demolished by AGA without giving us any explanation.[7] Even so, Margaret Community is still intact against all odds brought to them by mining companies conducting their business.

We lived in peace until AGA mining activities arrived here in 2012. Since then, the community has been turned to a ghost town and has been divided into factions because AGA and CHEMWES attempted to relocate Margaret Village without following the legal guidelines of mining community resettlement. There was no communication or consultation about AGA operations with the community despite our several attempts to initiate this process. It was only in 2017 when each household received letters from AGA.

AGA'S COERCIVE RELOCATION ATTEMPT

The AGA letter was like a specter haunting the community as it projected them as 'an informal community.' This meant they have no right to occupy the place and they understand that the title of 'informal' puts them at risk of being bulldozed from their residences. To recall, Mr Makgwatlhe, one of the old residents, mentioned that Stilfontein Gold which operated in the area had once told them to pay certain amounts so they can own their houses. Although these payments were made, they never received any title deeds to show that they are the owners, and the following mine owners each introduced new rules whenever they arrived in the community.

Soon after, the community started to organize themselves after AGA hired a company named Umsizi[8] to conduct a survey in the area. When the community enquired if the survey has something to do with the rumoured transaction between AGA and Harmony Gold purchasing some of its properties in the Vaal Region Umsizi denied the rumour. After the details concerning the exit of AngloGold Ashanti from South Africa became public[9], the community concluded that the survey and information we provided was retrieved from us *out of bad faith.* Following a strong resistance by the community against AGA secret planned relocation, we finally pressured AGA to meet with the community leaders on the 4th June 2019. We were invited to CHEMWES offices to voice the community's concerns as provided by the *Mineral and Petroleum Resources and Development Act, Free Prior and Consent, National Environmental Management Act* and NWA laws that afford us consultations on projects affecting us.

A series of delay tactics by AGA to consult afforded us time to get information about the Margaret land title deed, the transaction between AGA and Harmony Gold and to mobilize the community and seek solidarity from Mining Affected Communities United in Action, Women Affected by Mining United in Action and other NGOs helping the marginalized and vulnerable communities like ours whose human rights are violated by large industrial companies.

On our side, we went to that meeting accompanied by Robert Krause, a researcher at Wits law clinic, Centre for Applied Legal Studies (CALS) and Adv. Mariette Liefferink CEO of Federation for Sustainable Environment (FSE) which has many environmental cases against AGA/CHEMWES operations in SA. Lieferink has an extensive knowledge and done several case studies with the South African Human Rights Commission on Acid Mine Drainage and Artisanal Mining in South Africa. She has enlightened community representatives on the impacts of AGA on the land and environment and health and safety of mining communities of South Africa.

FSE and CALS assisted us a lot in making sure that we were not oppressed to voice out our grievances with AGA in boardroom meetings. Without this support, AGA management would have taken us for granted and abused their institutional power. The key grievinces included commuity benecitiation and accountability on the following Social Labour Plans from 2014-2019 and gender equity on employement, Environmental Management Plan for rehabilitation of sinkholes and the question of Land and Margaret Water Company ownership status and our benefits as the host community.

Importantly, we had a copy of the title deed which *did not* state that AGA and CHEMWES are the owners, contrary to what they had been claiming. During the meeting, when we showed AGA the copy of the title deed, they could not provide evidence that supported their claim that they are the rightful owners of the land. Kgomotso Tshaka, Vice President of Sustainability of AGA, announced that they have abandoned the agenda of relocating the Margaret community as recorded on AGA minutes:

> Provision of the basic services to communities is the local government's responsibilty and not AGA's, it should be taken into consideration that the mine has a finite life and the services offered currently will become a challenge when the mine closes as the mine wil not be able to continue servicing the community. AGA has looked at mechanisms to address some of the matters pertaining to Margaret village. The muicipality has been approached to be on board and partner on incorporation of Margaret village. AGA will arrange a meeting with the Matlosana muicipality and the stakeholders to address the necessary municipal services. AGA is the owner of the land and is willig to donate the land to the Margaret village community.

Many concerns of the community were discussed on that meeting and action items were designed and each AGA official and community reps given tasks to act on some of those issues and report progress in the next meeting. Most action items were never implemeted except for the meeting with Matlosana municipality; AGA and Margaret village representatives, held on 14 August 2019 at mayors boardroom. The municipality rejected AGA's proposal and claims about their development initiatives, and instead recommended a site visit to confirm AGA's claims.

We welcomed the municipality's decision for a site visit before they can enter into any agreement with AGA, because we knew that AGA wanted to use them avoid accountability of their legal obligation to Margaret community. We were interupted by Kgomotso Tshaka when the municipality asked us to present our story. She suddenly interjected pointing our direction claiming that "this is the community I told you about, that AGA has been providing water and electricity for free"

STRUGGLING FOR DRINKABLE WATER AND ENVIRONMENTAL REHABILITATION

The claims were offensive. Margaret Village had long been supplied with AMD into our taps. We had to fight hard with AGA before they changed the slow poison water that we believe they delibarately suppied to the village through their company, Margaret Water Company, a registered NPO. We had to ask for an intervetion from Benchmarks Foundation and the District Municipal Health Service Manager, Mrs Nokukhanya Pearl Tenza, and Provincial Water and Sanitation Manager, Mr CM Lobakeng. On September 2018, tests by Municipal health manager proved the water was contaminated with high sulphate content (present in AMD) and coliforms (normally found in feaces). Pity we are an impoverished community to take the case further, otherwise we would have sued AGA.

After three months from the promised site vist by the Matlosana munucipality, we made a follow up with the ward councilor who was present at the previous meeting. He arranged another meeting with the Municipality manager and promised to make a further follow up. Until today, we have not heard a word from the Municipality.

During 2019, the community chaos erupted in Khuma community over the mine ore dump (or tailing storage facility) donated by AGA to Khuma as their share of benefitiation of Kareerand TSF Expansion Project. Margaret community was again excluded by AGA. Despite the fact that according to National Mine Waste Act forbids anyone to work and handle mine waste except for an authorised professional. The move was to derail the focus of the community from holding AGA accountable on their legal responsibilties rehabilitation and Environmental Plan implementation, that they have been denying. Since the Margaret mine shaft was put under 'disuse,' the closure of AGA operations meant they had nothing to hide behind for not rehabilitating their operaitons in The Greater Stilfontein communities.

The AGA brewed chaos as the community took their frustrations to the street to protest and high tensions continued until mid 2020. Several factions were formed as a result and a mediator was appointed between AGA and the Stilfontein communities to find the best possible solution in the interest of the community.

On 9 June 2020, due to Covid lockdown restrictions, AGA held a virtual meeting with the Khuma Community Based Organisations. As usual, they did not extend the invite to Margaret community because we would not accept the legitimacy of a 'mine ore dump donation'. Margaret Village was demanding accountabilty for finacial provisions of the EMPR of Kareerand TSF expansion project and that AGA's 'compensation should be based on full cost accounting' one of the cardinal pillars of MACUA/WAMUA.

Of course we have learned a lot from MACUA/WAMUA since we associate with national organisation of mine communities, but this also meant we were sidelined from consultations. AGA divided the community cosultations by geographic locations effectively weakening the process. Nonetheless, I was invited to join the meeting with AGA by another faction of Khuma leaders to represent Margaret Village at the meeting which was a hybdird event, on a virtual platform and in a boardoom in town.

The meeting was very tense. The haulage of the mine ore dumps (at the tailing storage facilities) which had been stopped, had impacted the payment of 'gangster members' who were acting as private security of AGA against members of the commsunty who tried to stop the trucks and disrupt the project from continuing. As a result, there had been insults and death threats against community members. I did not feel safe to make any input in the meeting fearing for my life as I had my fair share of threats as well. I had been told my name was mentioned in an open meeting as one of people who must be killed]

After the virtual meeting, I gave feedback to the members of Margaret committee, and the resolution taken was to write an email to AGA to make them aware that I was part of the meeting representing the interest of Margaret community. After AGA received the email, I copied the DMRE as the regulators, and for solidarity various NGOs law clinics that the community is working with. I do this whenever I engage with AGA on community issues as a defence strategy in case I die from this activism work.

AGA did not waste time to respond to the email of Margaret committee. On the 9 July 2020, AGA official Mr Fipaza informed me the Covid 19 food parcels relief request by our Community Based Organisation, KOSH Social and Environmental Care (KOSH-SEC), have been granted to assist the most vulnerable and marginalized communities of Stilfontein such as Stokamina. On that call Mr Fipaza asked' why did we relate the rock dump hauling in Margaret village as a risk exposure making our community more vulnerable to die of covid 19? I did'nt answer.

We partnered with MACUA/WAMUA which rolled out the Covid 19 food parcels program in all their branches in mining affected communities across SA. It is a shame that we are one of many mining communities whose mineral resource is exploited around the world while we are also the most vulnerable to die of hunger during level one lockdown. We are impovershed and living below the line of poverty while rich minerals are found in our yards. We are continuing to build the western empires and local elites at our livelihoods expense.

KOSH-SEC aimed at reaching more communities therefore looked at other stakeholder institutions locally and abroad that can support the cause to feed the most vulnerable during Covid-19 pandemic. AGA was no exception. We also sent the request to them which they initially quickly rejected. Mr Fipaza sent an email notifying us that AGA is coming to Margaret to donate the food on 11 July, 2020. I was asked to open the program and welcome them to the community.

They arrived on the day promised and food parcels were distributed to all the people who were present while AGA was present. Three households were not present by the time of food distribution in Margaret hall, however their parcels were kept safe by the KOSH-SEC and later collected by those households members.

Meanwhile, AGA was running out of time to seal the deal with Harmony Gold. Since we have been virtually a 'hidden' mine host community that is mostly affected by their operations and the transaction, there had to be a resolution to how AGA could exist Stilfrontein without being subjected to a rigorous consutlation process.

A few days after the distribution of the food parcels, Mr Fipaza called me to annouce that there are some people who report not having received food parcels. There was a need for a process to address the concerns of these people. However, no details were provided of their names or how they may be reached.

Instead, AGA selected and formed its own Margaret Village committee which AGA will work with to carry over the community concerns with them and also the transition consultations between them to Harmony Gold. It was not suprising that the new committee members were not intersted in social and environmental activism and had little knowledge on mining policies of South Africa. Neither had they been involved in MACUA/WAMUA platforms and activities. Most of them are people who were desparate to get a job. So they were employed as general workers by sub contractors hauling the tailings ore dump.

This derailed the process of holding AGA accountable for their legal obligation of rehabilitaion in Margaret Village. Some of the people who worked as management of AGA during the beginning of our consultations are the same people working with Harmony, continuing on their corporate objective of making Margaret Village invisible. We are still being excluded in the Harmony consultations. But we will keep demanding and fighting for Free Prior and Informed Consent, Social Labour Plans, Environmental Impact Assessments, Rehabilitation and other legal obligations meant to protect our land and our livelihood.

REFERENCES

1 Margaret village is also close to another black township area called Khuma. Taps has been without water since the beginning of the year and they had to fetch water at Margaret village as they get their water from the mine supply.

2 Monnahela KS. The management of potable water supply in Khuma Township, Matlosana Municipality. Mini Dissertation Master of Development and Management Disaster Studies. Northwest University. Available at https://repository.nwu.ac.za/handle/10394/11268

3 Minister of Water Affairs and Forestry v Stilfontein Gold Mining Company Limted and Others (7655/05, 7655/05) 2006. ZAGPHC 47, 15 May 2006. Available at http://www.saflii.org/za/cases/ZAGPHC/2006/47.html

4 Centre for Environmental Rights, Minister of Water Affairs vrs Stillfontein Gold Mining Company. Available at https://cer.org.za/wp-content/uploads/2011/12/Minister-of-Water-Affairs-v-Stilfontein-Gold-Mining-Company.pdf

5 Ford MA, Simosen HA, Viljoen EB, Janssen MS. The Chemwes Uranium plant: A case history in Development of Projects for the Production of Uranium Concentrates, International Atomic Energy Agency: Vienna, 1987. p209-225. Available at https://inis.iaea.org/collection/NCLCollectionStore/_Public/19/016/19016743.pdf?r=1

6 Water and Environmental Consultants, Kareerand DEIR Public Webinar Recordings. Available at http://www.gcs-sa.biz/documents

7 It appears there was no direct mining utility of these facilities, but the infrastructure set up was of wider benefit to the Margaret community. These facilities were built during the apartheid period by the Stilfontein Gold Company, and due to segregation was not fully enjoyed by the majority African population. Destroying these facilities, without any form of consultation with the community is a violation of the principle of Free Prior and Informed Consent.

8 Umsizi: Sustainable Social Solutions provides support to corporations to achieve compliance deliverables on socio-economic development. Further details are available at www.umsizi.co.za ; AngloGold Ashanti, South Africa Region 2016-2017, Community Report p. 168. Available at https://thevault.exchange/?get_group_doc=143/1503393879-2016-2017CommunityReport.pdf

9 Mining Technology, AngloGold receives approval to sell South African assets to Harmony Gold, 15 September 2020. Available at https://www.mining-technology.com/news/anglogold-receives-approval-south-african-assets-sale/

The Agrarian-Mining nexus and Energy Sovereignty

GRASSROOTS WOMEN AND ENERGY SOVEREIGNTY

By Melania Chiponda

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Energy sovereignty is a political ideology which seeks to liberate communities, people and groups from the dominant fossil fuels driven energy system that is driven by the needs of capital as opposed to the needs of the people. However, the existing localised renewable energy alternatives, whilst addressing the climate change concerns and leaning towards the participation and democratisation of the energy systems, have often failed to take into consideration the needs of the peasant, working-class and indigenous women, who carry the burden of energy poverty and climate induced disasters. As a response to the absence of gender justice in the energy sovereignty debates, this essay is proposing some principles that should be taken into consideration when laying the foundations for women-driven energy transitions that seek to transform the energy sector.

CONCEPTUALISATION OF ENERGY SOVEREIGNTY

The notion of energy sovereignty began as a conception that seeks to rethink and reshape the priorities concerning energy systems decision making[1]. It is Based on the need to shift away from advancing 'energy security' which is based on a narrow conceptualisation of how energy poverty can be addressed. 'Energy security' does not address the issues of the sources of energy supply and how the energy is produced. Therefore, by failing to centre the creation of renewable energy as an energy source, 'energy security' gives room to accommodate carbon-intensive energy sources. By contrast, energy sovereignty is centred on the geopolitics of the past climate crises and how energy systems need to be driven by clean, renewable energy systems that are controlled and owned by the communities. Therefore, the priority of energy sovereignty is the decarbonisation of the energy systems. It places importance on systems that are climate just, and puts the rights of peoples and individuals to have the chance to make their own decisions concerning the forms, the sources as well as the scales, patterning and organisation of energy systems. Energy sovereignty is embedded in climate justice and environmental justice politics. Energy sovereignty is the politics of the people. However, energy sovereignty, without gender justice, does not guarantee the same energy sovereignty to women.

ENERGY SOVEREIGNTY AND GENDER JUSTICE

Energy sovereignty refers to the right of individuals, communities and peoples to decide their energy source, production, distribution and consumption in a way that they consider ecologically, socially, economically and culturally appropriate, so long as it does not negative affect other groups in society.[2] This definition leaves out gender as an analytical category and subsumes women under ‘individuals, communities and peoples’. When the façade of gender neutrality is not challenged, and when there is no opportunity to trouble and disrupt the boundaries to offer a chance to examine and address this gender blindness, then community energy sovereignty will not translate to women’s energy sovereignty. When energy sovereignty is guided by gender justice, it should emancipate women from energy poverty and facilitate their meaningful participation in the energy systems. The inclusion of prevailing social and cultural norms into the design of energy systems poses a threat to women’s participation in the energy generation, distribution and consumption practices because of the entrenchment of patriarchal values and beliefs within social and cultural structures. Community-driven energy systems should be sensitive to the multiple forms of oppression that marginalise peasant, working-class and indigenous women, and women in general. Women’s oppression is organised through institutions like the family, community, market, religious bodies, schools, government, and others. These institutions’, norms, customs, and traditions create and justify the oppression on an ongoing basis.

It is apparent that women often occupy the frontlines of environmental justice and energy justice movements because they experience climate change more severely than other groups in society. This is despite their exclusion from formal channels of participation in local energy systems. Women are disproportionately impacted by the impacts of climate change because of their unpaid household burden and care-work and this is even more severe on the women whose lives and wellbeing depend on the land for food production and survival. This is the reason why Feminist movements are calling for gender justice in energy transition debates. Energy sovereignty should guarantee women’s human rights, autonomy and self-determination. Whilst access to energy is critical, energy systems should not be designed in a way that violates the rights of women and other vulnerable groups in society. When energy systems are profit-oriented and profit-driven and developed by large corporations, they become more concerned about growth and give no room for the participation and inclusion of peasant, working-class and indigenous women, as they perpetuate structures that benefit their corporate interests.

RENEWABLE ENERGY COOPERATIVES

When energy sovereignty centres on gender justice, it considers women and other minority groups as the most relevant sources of knowledge that aims at transforming their conditions and, therefore, should inform energy transitions and be the drivers of energy systems. Statistically, grassroots women are more apprehensive about climate change, as organisers, educators and caregivers who have throughout history devised ways to provide and meet their family needs.[3] Therefore, this places them in a strategic position to innovate and develop sustainable energy alternatives informed by values of equity and the building of local power. The growth of renewable energy cooperatives in some communities worldwide has proved that equity is not an automatic and easy process as women continued to be marginalised and excluded in energy decision-making processes, even at the community level. Even though the cooperatives are intended to ensure energy sovereignty at the community level, the same cooperatives do not consider women’s specific and strategic needs. Therefore, they fail to guarantee women’s energy sovereignty. Engaging women as workers, volunteers and consumers within the renewable energy cooperatives without putting them in roles where they can make decisions and drive the change does not assure energy sovereignty for women.

PRINCIPLES FOR WOMEN'S ENERGY SOVEREIGNTY

For the peasant, working-class and indigenous women to realise energy sovereignty, there are some steps that they need to take. These include organising to resist the power that the fossil fuels corporations are holding in the energy sector, reclaiming the energy sector and taking control of the energy systems so that women have control of the distribution of risks and benefits, and restructuring the energy sector to give priority to gender equity and gender justice within the renewable energy cooperatives so that the system allows for just community ownership and distribution of the governance. When energy is produced for profit and not for the people, it exacerbates inequalities and disparities within the energy system. Therefore, the road to women's energy sovereignty should involve organising to challenge the profit-driven energy production and the patriarchal nature of the system to ensure that women have control over the system.

Apart from gender justice, one of the principles that should inform women's energy sovereignty is energy democracy. This emerging social movement aims to push for renewable energy transitions by resisting the dominant energy agenda by claiming back and ensuring the democratic restructuring of energy regimes.[4] There is need for an appreciation of the existence of a dominant, corporate-driven renewable energy plan that does not take into consideration the needs and aspirations of the local communities, particularly women who are often at the receiving end of mega renewable energy systems that remain controlled by corporations and continue to marginalise women's needs. Therefore, this democracy weaved within the energy systems should allow women's full participation. Ensuring energy democracy by allowing women to determine, drive, and decide on the renewable energy system creates the much-needed chance to destabilise the patriarchal, capitalist power relations that continue to exist within the existing systems and reverse women's stories of deprivation relegation and subjugation.

Continued energy poverty compromises people's health, reduces their livelihoods opportunities, and women's ability to rise out of poverty. Women are often viewed as energy users only and continue to be marginalised in the decision-making process related to energy services, yet they experience energy poverty much more severely than men. There is thus a need to build women's leadership in the energy transition spaces. There is a need for the redistribution of power in a way that guarantees the full participation of the local women as they transition to the equitable, resilient, sustainable, local, community-controlled renewable energy systems. The current energy systems, including the renewable energy cooperatives and the localised renewable energy systems, are dominated by systems of control and power that privileges men. The designs tend to be hierarchical and patriarchal, therefore the need to restructure to allow for collective women-centred leadership of the energy systems.

REFERENCES

1 Schelly C, Bessette D, Brosemer K, Gagnon V, Arola KL, Fiss A, Pearce JA, Halvorsen KE. Energy policy for energy sovereignty: Can policy tools enhance energy sovereignty?, Solar Energy, Volume 205, 2020. p. 109-112

2 Cotarelo P, Perez DL, Guillamon A, Campuzano M, Berdié L. Defining Energy Sovereignty, 2014. Available at https://odg.cat/wp-content/uploads/2014/08/energy_sovereignty_0.pdf

3 Ledee R. Women and Energy, The European Association of Cities in Energy Transition, 2019. Available at https://energy-cities.eu/women-and-energy/

4 Burke M, Stephens JC. Energy democracy: goals and policy instruments for sociotechnical transition, Energy Res.Soc. Sci. 2017. 33, 35–48. DOI: 10.1016/j.erss.2017.09.024

EXPLORING THE LINKAGES BETWEEN MINING, LAND, AND AGRICULTURE IN ZIMBABWE

By Steven Mberi, Freedom Mazwi and Walter Chambati

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This paper builds from an earlier study by the Sam Moyo African Institute for Agrarian Studies (SMAIAS) which explores the relations that exist between mining, land and agricultural in Zimbabwe, which all play a key role in the economy through employment creation, foreign exchange generation, infrastructural development and providing linkages to the manufacturing sector. Within the extractive sector, the paper lays emphasis on the mining sector and observes how it accentuates agriculture in terms of land use, which threatens the livelihoods of the peasantry. It analyses the internal and external factors such as politics, the legal frameworks encompassing land, agriculture, and mining and global dynamics underpinning the development of mining and agriculture. The paper concludes by calling for the need to harmonise mining and land laws to enhance linkages between the mining, agriculture and manufacturing, and also ensure the security of tenure for the peasantry, as well compensation in times where dispossessions are inevitable.

MINING AND AGRICULTURE: THE EVOLUTION TRAJECTORY

Mining and agriculture have been strongly interrelated since the advent of British South Africa Company (BSAC) to Rhodesia in 1890. These sectors quickly became the major contributors to exports and national income, with gold and asbestos generating the highest revenues in the mineral sector, and tobacco being the main agricultural export crop under the settler-colonial period.

The mining and agricultural sectors were interlinked under colonialism, as evidenced during the 1930–1938 global depression, where revenues from gold mining contributed 600,000 British pounds to the agricultural sector to shore it up. This led to mineral exports becoming the engine of economic growth, having a total export value of 85.3%, with gold alone contributing 79.3%, and other minerals 6%, whereas agricultural exports accounted only 14.7%.[1] Most farmers thus abandoned farming in favour of small-scale gold mining as the agricultural sector continued to dwindle.

The overestimation of mineral deposits in Southern Rhodesia by BSAC resulted in major losses for the company, as it had anticipated for major gold reserves similar to those found in the Witwatersrand, South Africa.[2] This development led the company to embark on a campaign to attract agrarian capital to Southern Rhodesia, such that by 1911, 23,000 Europeans had settled in the country, engaging in a variety of economic activities ranging from small- to medium-scale mineral extraction, maize and tobacco production. However, the dawning economic structure dominated by mining and agrarian capital operating alongside the African peasantry laid a foundation for exploitative labour relations and unequal land ownership patterns. The initial linkages between the agricultural and extractive sectors arose through the commercial agricultural sector supplying the growing mining sector with produce. In 1932, the Land Apportionment Act was passed by white capital to eliminate all forms of competition by the peasantry, which alienated the indigenous population leading to their loss of fertile pieces of land. It also strengthened their status as a source of waged labour.[3] Protectionist measures such as the amended Maize Control Act of 1934, different levy and control acts for black farmers were also implemented to protect white mining and agrarian capital.

Labour relations in Mining and Agriculture

During the early years of colonial rule, waged labour on mines, plantation estates and large-scale commercial farms was unattractive to the local population, which resulted in labour being out-sourced from neighbouring countries such as Malawi, Mozambique and Zambia.[4] This was because the natives who retained land before dispossession became widespread from the 1930s and supplied the nascent mines and industries with food needs before LSCFs became fully developed. Following the imposition of hut taxes in 1894 owing to contracted agricultural production, the African peasantry found itself more or less obliged to work on the mines, plantation estates and the nascent manufacturing industry. Land dispossession, hut and poll taxes were paid in cash thus compelled the peasantry to seek employment. Forced labour was not a success. To date, mining and agriculture linkages continue to shape rural labour trajectories.

EFFICACY OF LAND, AGRICULTURE AND THE EXTRACTIVE SECTORS IN THE NATIONAL ECONOMY

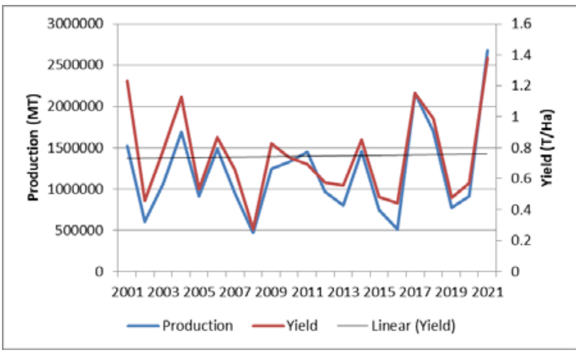
The extractive and agriculture sectors remain central to Zimbabwe's economic development through powering the industrialisation and value chains strategy.[5] In agriculture, recovery is witnessed in tobacco and cotton production, although this growth remains depended on favourable global commodity prices.[6] Apart from the cash crops, maize yield for 2020/2021 season has witnessed the highest since the 2000/2001 season, with 1.3 Metric Tonne per hectare (MT/ha) and over 2.6 million MT production being recorded.[7]

Production Growth for Cash Crops

CROP	2020/2021	2019/2020	% Change
Tobacco	200 245	184 042	8
Cotton	195 991	101 000	94

Source: Ministry of Lands, Agriculture, Fisheries, Water and Rural Resettlement (2021).

Average maize yield trends from 2000/01 – 2020/2021 season



Source: Ministry of Lands, Agriculture, Fisheries, Water and Rural Resettlement (2021).

In the extractive sector, Zimbabwe extracts over 40 minerals, with five contributing significantly to the country's export income. These include diamonds, PGMs, gold, nickel and asbestos. Tobacco, cotton, sugar and horticulture remain the major agricultural export crops after the fast-track land reform programme (FTLRP).[8]

Calls for mineral beneficiation have been increasing to derive maximum export value for Zimbabwe. In 2016, as a step towards diamond beneficiation, three PGM mining firms (Unki, Mimosa and Zimplats) engaged in negotiations with the government over platinum beneficiation. As part of this negotiation, in May 2019, the Anglo-American Platinum commissioned a 62-million-U.S. dollar smelter at its Unki Platinum Mine in Shurugwi, which enabled the company to begin partial processing of ore locally before exporting to South Africa for refining.[9]

Although Zimbabwe's share of the world production of key minerals is fairly high, at 9% of all diamond production (by volume) and around 6% of all platinum,[10] [11] the country's mineral consumption patterns remains low due to limited industrialisation, minimal beneficiation and value addition before export.[12] As a result, the country remains a net exporter of minerals such as diamonds, gold, platinum, rendering the extractive industry key in the economy, constituting the largest export category of 60% as of October 2018.[13] [14]

Foreign exchange derived from mineral exports is useful in mitigating against external vulnerability, as it can be utilised for further investments in physical infrastructure whilst also contributing to domestic savings.[15] Like the Western countries such as Norway that invested in Sovereign Wealth Funds (SWF), the Government of Zimbabwe (GoZ) in 2016 indicated that it would be following suit, through executing legal framework of the SWF and allocated $500,000 to it. In 2021, the GoZ set aside resources equivalent to US$97,5 million to capacitate the fund.[16] SWF are investment funds derived from a country's reserves, through the central bank, that accumulate from budget and trade surpluses, set aside for investment purposes to benefit the country's economy and citizens.[17]

Since 1980, export trends in Zimbabwe have reflected the dominance of the mining and agricultural sectors, where a decline in either has negatively impacted the national fiscus. In 2021, the mining sector's contribution to the GDP stood slightly lower at 11% compared to agriculture (11.3%). This might have been attributed to agriculture being less affected by the impact of the COVID-19 pandemic, whereas the mining sector faced full negative impact of shocks through lockdowns, low demand, closed borders among others.[18]

Since dollarisation in 2009, increase in the extractive sector's contribution to GDP continue to be noted. Mineral export revenue contributions to the national fiscus increased from US$57.8 million in 2009 to US$445 million in 2012.[19] The increase is attributable to the discovery of alluvial diamonds deposits in Marange, major investments in PGM mines, the de-criminalisation of artisanal mining in 2013 and the surge in global prices. In 2020, the mineral export earnings surged to US$2.4 billion.[20] This is despite a fall in gold deliveries by small-scale producers in 2020, where they contributed 48.89% of the total gold deliveries, compared to 63.19% in 2019.[21]

Export Shipments Performance by Sector (US$ Millions)

Sector	2020	2019	% Change
Mining	**3,291.80**	**2,838.90**	**15.95%**
Platinum	1,773.2	1,209.8	46.57%
Gold	994.7	1,058.2	-6.00%
Chrome ore + Ferrochrome	231.5	265.9	-12.94%
Diamonds	126.1	125.6	0.40%
Other minerals	166.30	179.40	-7.30%
Tobacco	782.4	860.8	-9.11%
Manufacturing	244.7	314.8	-22.27%
Agriculture	158.5	344.8	-54.03%
Transport	124.0	191.6	-35.28%
Horticulture	29.3	27.3	7.33%
Postal & Telecommunications	11.7	12.7	-7.87%
Other Services (Construction, etc	9.3	32.0	70.94%
Tourism (Hunting)	-1.9	19.3	-90.16%
Total	**4,653.60**	**4,642.20**	**0.25%**

Source: Exchange Control Records (2021)

The dominance of the mining industries contribution to export and a major source of foreign exchange continued in 2021, contributing to 70.7% of export shipments.

The extractive sector has the potential to finance agricultural production at macro and micro-level. At macro level, this can be achieved through revenue contributions to the national fiscus, which, if directed to the agricultural sector is capable of resolving the funding crisis. However, since 1980, the government has been found wanting in regards to improving allocations to agriculture, as allocations never exceeded 6.5%. The average budgetary percentage share for agriculture post-FTLRP stood at 4.6%, a situation which called for further resource mobilisation.[22] Improvements have however been registered in recent years, with the 2020 and 2021 agriculture share allocation recorded at 19 and 12.8% respectively. [23]

At micro-level, the extractive sector provides formal employment to roughly 48,000 workers, whereas the agriculture sector accounts for more than 60% of the working population.[24] Gold-mining, however, is emerging as a potential large-scale employer, as small-scale mining contributes directly to the livelihoods of over one million people.[25] Given the semi-proletarian[26] nature of the population and the majority of extended family kinship relations, the mining sector can finance rural households' procurement of agricultural inputs.

LAND USE IN MINING AND AGRICULTURE

Mining and Agricultural conflict

Mining and agrarian capital have always been competing on the allocation and use of land, thus generating contention within the policy and fiscus spectrum[27]. Mining continues to take precedence over agricultural activities through the Mines and Mineral Act [Chapter 21:05] of 1961. The

Act, still enacted, was initiated by the white-settler interest in gold and other mineral resources. For instance, the discovery of alluvial diamonds in Marange, resulted in the displacement of approximately 4,700 peasant households, indicative of how mining took precedence over agricultural activities.[28.]

The absence of a clear land policy also eases the dispossession of peasants from their means of production, allowing the government to convert land use from agricultural to non-agricultural activities.[29] Prior the land reform, communities' access to natural resources on large-scale commercial farms was constrained by freehold title, which gave the land-owner sole rights to natural resources. With its state-based land tenure relations, the FTLRP opened up these natural resources to both a widened peasantry base and to artisanal miners.[30]

Land tenure and the security of investment

Persisting challenges on land, agriculture and extractive sectors relate to tenure and security of investments. Private commercial banks remain reluctant to provide loans to newly resettled farmers, citing politics of tenure. Negotiations between government and the Bankers Association of Zimbabwe are ongoing regarding the bankability of 99-year lease agreement. The contestations between capital and the state over land tenure documents emanate from the dismantling of freehold titles after land reform programme was deemed complete.[31]

Although, the Second Republic of 2017 revised the Indigenisation and Economic Empowerment Act in May 2019, which previously required the non-local firms to cede 51% stake to locals, a policy framework that guarantees 'security' on investments is critical for the sectors to realise maximum productive potential.[32]

The small-scale mining boom

Due to fiscal constraints, the government de-criminalised the operations of over 350,000 small-scale miners in an attempt to boost revenue. This provides scope for economic development as incomes can be channelled towards agricultural production by small-scale miners involved in agricultural production. FTLRP critics who fail to see a link between non-farming activities and agricultural production argue that subsequent declines in output in the 15 major crop commodities is occasioned by a lack of formal agricultural training among resettled households and their alleged focus on resource extraction activities.[33] This is misleading, since it ignores issues such as the absence of agricultural credit schemes that propelled agricultural development in Zimbabwe soon after independence.[34]

GENERAL PERSPECTIVES ON SUSTAINABLE LINKAGES BETWEEN AGRICULTURE AND MINING

Given the existence of sound policies backing agriculture and mining sectors, the capacity of the latter to provide linkages to the national economy should not be underrated.[35] Mining offers great potential for upstream and downstream linkages to other sectors, although critical to this are effective policy interventions which provide incentives to industry.[36] [37] Backward linkages in the extractive sector involve surveying, which is sourced internally. Mining equipment and installations of plants are forms of backward linkages sourced externally. Nonetheless, Zimbabwe's mining sector provides minimal backward linkages to agriculture and local manufacturing as mining firms source their machinery requirements externally.[38] However, the GoZ has tried to enhance these linkages through the removal of import-permit requirements for inputs meant for the mining sector.[39] Mining revenues could be used to support the sustainable agriculture sector, which provides livelihoods to the majority of the population beyond the few jobs that arise from the capital intensive mining sector. Furthermore, the mining revenue enhance diversification of the economy, promote rural industrialisation and also maintain economic stability post depletion of mineral resources.

The current capacity of local industry to supply machinery and spare parts to the mining sector is still constrained by the economic sanctions post FTLRP, and de-industrialisation that took place in the 1990s under the economic structural adjustment programmes. However, the extractive sector provides forward linkages to industries engaged in mineral refining, beneficiation and those that utilise aluminium, steel and nickel in the production of their end products. Nonetheless, these linkages have also struggled, as minerals such as diamonds, platinum, gold and some precious metals are mainly processed outside Zimbabwe, although some selected companies such as Zimplats, Bindura Nickel Corporation have commissioned beneficiation facilities.[40] Fessehaie and Rustomjee also points to the constraints faced by mineral beneficiation by countries in Southern Africa[41] as a result of cost of capital, limited scale, capital intensity and distance to markets.

Although the linkages between the mining and agricultural sectors remains minimal, mining continues to provide forward linkages to companies such as Zimplow, involved in manufacturing farm implements. Some forward linkages are also notable to the informal sector for the manufacture of other agricultural implements such as hoes, scotch-carts.[42] As discussed earlier, incomes generated by mineral extraction can be a source of finance of agricultural activities, through remittances to rural households by people formally or informally employed in the extractive sectors. Such findings are confirmed by a study done by Mkodzongi (2019), which showed that workers formally employed at Zimplats were using their wages to finance agricultural operations. A survey conducted by the African Institute for Agrarian Studies, indicated less than 10% of the surveyed households were engaged in natural resource extraction on their plots, although key informant interviews claimed that such households could be higher.[43]

The extractive and agriculture sectors remain critical to the Zimbabwean economy and play a key role in national development by creating direct and indirect employment, generating foreign exchange, providing revenue to the national fiscus and contributing to infrastructural development. Through direct tax contributions, the extractive sector indirectly funds the agricultural sector, thus creating some links between the two. Nonetheless, given the lack of mineral beneficiation, forward linkages from the mineral sector that would benefit the agriculture sector remain limited. More importantly, there is need to harmonise mining and land laws to ensure the peasantry is not disenfranchised from their land rights, when mineral resources are discovered. Under extreme conditions, peasant farmers should be adequately compensated for any expropriated land.

REFERENCES

1 Phimister I. An Economic and Social History of Zimbabwe, 1890–1948, London: Heinemann, 1988
2 Arrighi G. The Political Economy of Rhodesia, in G. Arrighi (ed.) Essays in the Political Economy of Africa. New York and London: Monthly Review Press, 1973. p. 336-77.
3 Chambati W. The Political Economy of Agrarian Labour Relations in Zimbabwe after Redistributive Land Reform, Agrarian South: Journal of Political Economy, 2(2), 2013. p. 189–211
4 Sachikonye L. The State and Agribusiness in Zimbabwe since Independence. University of Leeds, 1989
5 McMahon G, Hochereiter R, Kearney R. Zimbabwe: from economic rebound to sustained growth: growth recovery notes, World Bank, Harare, 2012
6 World Bank. Zimbabwe Economic Update (ZEU): Changing Growth Patterns, 2016. Available at http://documents.worldbank.org/curated/en/184441468195017068/pdf/103061-WP-P155915-Box394849B-PUBLIC-Zimbabwe-Economic-Update-Sin. Accessed on 4 November 2016.
7 Ministry of Lands, Agriculture, Fisheries, Water and Rural Resettlement. Second Round Crop and Livestock Assessment Re-

port 2020/2021 Season, 2021. Available at https://fscluster.org/sites/default/files/documents/2nd_round_assessment_report_2021_23_april_2021.pdf
8 Binswanger-Mkhize H. and Moyo S. Zimbabwe, From Economic Rebound to Sustained Growth; Note II: Recovery and The Agrarian-Mining nexus and Energy Sovereignty 71 The Agrarian-Mining nexus and Energy Sovereignty Growth of Zimbabwe Agriculture, Washington DC: World Bank, 2012
9 Anglo American, 2019. Available at https://www.angloamericanplatinum.com/media/press-releases/2019/16-05-2019
10 International Monetary Fund. Zimbabwe – Staff-monitored program, Washington DC, Country Report no. 13/193, July 2013
11 Kimberley Process Certification Scheme. Annual global summary – 2012 production, imports, exports and KPC counts: Kimberley Process Certification Scheme, June 19, 2013
12 Zimbabwe Investment Authority, 'The Zimbabwe Investor: Investment Outlook', July 2015.
13 Zimbabwe Investment Authority, 2015. Annual Report.
14 Mining Technology. Available at https://www.mining-technology.com/features/mining-in-zimbabwe-time-to-use-it-or-lose-it/
15 World Bank. Food Price Watch, April 2012, Washington DC, 2012
16 The Herald. US$100m for Sovereign Wealth Fund. Available at https://www.herald.co.zw/us100m-for-sovereign-wealth-fund/
17 IMF, Press Release: International Working Group of Sovereign Wealth Funds is Established to Facilitate Work on Voluntary Principles. 2008. Available at https://www.imf.org/en/News/Articles/2015/09/14/01/49/pr0897
18 GoZ. National Budget Statement. Ministry of Finance and Economic Development, 2021. Available at http://www.zimtreasury.gov.zw/index.php?option=com_phocadownload&view=category&id=65&Itemid=790
19 Mhembere A. Overview of Zimbabwe's Mining Sector, Chamber of Mines, Zimbabwe, 2016
20 The Government of Zimbabwe, 2021 National Budget. Available at https://www.veritaszim.net/sites/veritas_d/files/2021%20%20NATIONAL%20BUDGET%20STATEMENT.pdf
21 Reserve Bank of Zimbabwe. Monetary Policy Statement. RBZ, 2021
22 Moyo S. Nyoni N. Changing Agrarian Relations after Redistributive Land Reform in Zimbabwe, in Moyo S, Chambati W (eds). Land and Agrarian Reform in Zimbabwe: Beyond White-Settler Capitalism. Dakar, 2013. p. 195-250.
23 Government of Zimbabwe. National Budget Highlights, 2021. Available at file:///C:/Users/dell/Downloads/2021_National_Budget_Highlights_final.pdf
24 Zimstat. 2014 Labour Force Survey. Harare: Zimbabwe National Statistics Agents, 2015
25 Mkodzongi G, Spiegel S. Artisanal Gold Mining and Farming: Livelihood Linkages and Labour Dynamics after Land Reforms in Zimbabwe, The Journal of Development Studies, 2019. 55:10, 2145-2161
26 Agricultural workers who receive the wage-form of payment and some who are part-time peasants and part-time industrial workers.
27 Phimister I. An Economic and Social History of Zimbabwe, 1890–1948, London: Heinemann, 1988
28 Madebwe C, Madebwe V, Mavusa S. Involuntary displacement and resettlement to make way for diamond mining: the case of Chiadzwa villagers in Marange, Zimbabwe, Journal of Research in Peace, Gender and Development, 1(10), 2011. p. 292-301
29 Moyo S, Maguranyanga B. Land Administration Systems. Harare: World Bank, 2014
30 Mkodzongi G. Livelihood Diversification and Sustainability in a Changing Agrarian Situation in Zimbabwe, 2016
31 Moyo S, Nyoni N. Changing Agrarian Relations after Redistributive Land Reform in Zimbabwe, in Moyo S, Chambati, W (eds). Land and Agrarian Reform in Zimbabwe: Beyond White-Settler Capitalism. Dakar, 2013. p. 195-250.
32 Hawkins T. The mining sector in Zimbabwe and its potential contribution to recovery, Harare, 2009
33 Hammar A, Raftopoulos B, Jensen S (eds). Zimbabwe's Unfinished Business: Rethinking Land, State and Nation in the Context of Crisis, Harare: Weaver Press, 2003.
34 Moyo S. The Land Question in Zimbabwe. Harare: SAPES Books, 1995
35 McMahon G, Hochereiter R, Kearney R. Zimbabwe: from economic rebound to sustained growth: growth recovery notes, World Bank, Harare, 2012
36 Fessehaie J, Rustomjee Z. Resource-based industrialisation in Southern Africa: Domestic policies, corporate strategies and regional dynamics, Development Southern Africa, 2018. 35:3, 404-418, DOI: 10.1080/0376835X.2018.1464901
37 Saunders R. Contestation and Resource Bargaining in Zimbabwe: The Minerals Sector, December 2017. Geneva: UNRISD, 2017
38 Gochero P, Boopen S. The effect of mining foreign direct investment inflow on the economic growth of Zimbabwe, Journal of Economic Structures 9, 54, 2020. Available at https://doi.org/10.1186/s40008-020-00230-4
39 Kanyenze G, Kondo T, Chitambara P, Martens J (eds). Beyond the Enclave: Towards a ProPoor and Inclusive Development Strategy for Zimbabwe. Harare. Weaver Press, 2011
40 ZEPARU. Assessment of the scope and applicability of beneficiation and value addition of minerals in Zimbabwe. Study Report Submitted to the African Development Bank, 2017
41 Fessehaie J, Rustomjee Z. Resource-based industrialisation in Southern Africa: Domestic policies, corporate strategies and regional dynamics, Development Southern Africa, 35:3, 2018. 404-418, DOI: 10.1080/0376835X.2018.1464901
42 Mujeyi K, Mutambara J, Siziba S, Sadomba WZ, Manyati T. Entrepreneurial innovations for agricultural mechanisation in Zimbabwe: Evidence from an informal metal industry survey, African Journal of Science, Technology, Innovation and Development, 7(4), 2015. 276–285. doi:10.1080/ 20421338.2015.1082367
43 Moyo S et al. Fast Track Land Reform Baseline Survey in Zimbabwe: Trends and Tendencies, 2005/06, 1st ed., Harare: African Institute for Agrarian Studies, 2009

RECLAIMING THE SHARED VISION OF THE NILE BASIN STARTING WITH THE GREAT ETHIOPIAN RENAISSANCE DAM (GERD)[1]

By Dr Stephen Max Donkor

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In 2011, Ethiopia led by Meles Zenawi[2] began constructing the "Grand Ethiopian Renaissance Dam" (GERD)[3] on the Blue Nile after stalemate was reached on an article 14b of the Comprehensive Framework Agreement[4] (CFA) based on an agreed Shared Vision.[5] The GERD is 80% complete and filling began last year. Sudan and Egypt as downstream countries have expressed strong concerns. To date negotiations, under the African Union[6], among the three countries on filling and operating the dam have stalled. The war drums are beginning to be beaten. Why is this the case? And what are the alternatives?

THE NILE RIVER AND ITS PEOPLES

The Nile River[7] spans eleven countries in central, eastern and north Africa. It has two main tributaries, the White and Blue Nile. The Blue Nile or Abay provides about 85% of the total Nile flow and has been a vital resource since antiquity. It originates in the Ethiopian highlands and its management has been a source of centuries of tension between Ethiopia and its downstream neighbours, Sudan and Egypt. These tensions began growing in 2010 when negotiation led to agreement on the Comprehensive Framework Agreement (CFA) by all riparians except Sudan and Egypt who suspended their participation in Nile Basin Initiative[8] (NBI). Ethiopia unilaterally started constructing the dam for hydropower to meet its own surging demand for electricity and to share with neighbouring riparian states. The contention has deep roots. It arises from treaties signed between Britain (as the colonial power in Sudan) and Egypt (1929)[9], and between Sudan and Egypt (1959)[10]. The treaties provide for the full utilization of the Nile's flow by the two downstream countries (only!) and constrains other riparian states from any developments along the whole basin without approval by Egypt. They were concluded without Ethiopia (or the other upstream countries) being consulted and despite Ethiopia's protests.

CLOUDS OF WAR

In 1979, the President of Egypt, Anwar Sadat[11], was quoted as saying "the only matter that could take Egypt to war again is water", a position reiterated in 1985 by the Foreign Minister of Egypt, Bhoutros Ghali. These statements express the extent to which Egypt relies on the Nile for freshwater. On the other hand, with population growth and demand for water services for energy, agriculture, and industry, the other nine riparian states want to benefit from the Nile as well within the framework of the CFA. Ethiopia, as the source of about 85% of the total Nile flow, has always stated it non-acceptance of the status quo. The ingredients for conflict have therefore been lurking in the shadow of otherwise friendly relations among the riparian states.

THE NILE BASIN SHARED VISION AND ITS EVOLUTION

In February 1999, the Nile Basin Initiative (NBI) was established. Through intensive consultations a ***Shared Vision*** was agreed by all riparian states *"to achieve sustainable socioeconomic development through the equitable utilization of, and benefit from, the common Nile basin water resources."*

Achieving this milestone was the result of efforts, beginning in 1983, by the various riparian states organized as the Undugu group[12] to find ways to increase regional cooperation. In 1993, the riparian water ministers formed the Technical Cooperation Commission for the Promotion and Development of the Nile (TECCONILE)[13]. It organized a series of annual Nile 2002 Conferences[14], which served as 'dialogue forum' among the riparian countries, international experts and other stakeholders.

To implement the Shared Vision, two tracks for cooperation were established: 1) a Technical track, and 2) a Legal/Institutional track coordinated by the NBI Secretariat. Within the Technical track, two groups of projects were proposed. The first was to implement the common vision basin-wide, and the second to develop concrete projects along the two major tributaries to provide tangible evidence of the benefits of cooperation. These were classified as Shared Vision projects and Subsidiary Action Plans. The latter were managed by technical offices in Addis Ababa for the Blue Nile and Kigali for the White Nile. The overall Shared Vision projects are managed from NBI Headquarters in Entebbe. The technical tracks focused on the implementation of shared regional projects such as environmental protection, regional power trade, confidence building and socioeconomic development. NBI aims to transcend *'water sharing'* by focusing on *regional benefit sharing, cooperation and integration*.

Parallel to the Technical track, The NBI also undertook the Legal/Institutional track which involved extensive sensitization, high-level policy dialogue[15] between riparian states, and intensive negotiations from 2000 to 2010. These resulted in the Comprehensive Framework Agreement (CFA) which, for the most part, was agreed to by all riparians except Sudan and Egypt who objected to one article. The NBI achieved a great deal, but these achievements are being ditched. Why?

THE COMPREHENSIVE FRAMEWORK AGREEMENT (CFA) AND THE ROADBLOCK

The CFA codifies a vision of *equitable and reasonable utilization of the Nile waters without causing significant harm among the riparian countries*. This legal instrument conforms to, and derives from, the UN Convention on the Non-Navigable Uses of International Watercourses[16]. The same concept is also part of the African Water Vision 2025[17] which was endorsed by the African Union Extraordinary Summit in Sirte in 2004[18].

The CFA text[19] consists of 45 articles. All but one, Article 14, was agreed to by all riparian nations. Article 14 is on water security and has two parts. Part (a) was agreed to, but part (b) was not. Part (b) reads as follows: *"not to significantly affect the water security of any other Nile Basin States"*. Egypt proposed to replace this by the following: *"not to adversely affect the water security and current uses and rights of any other Nile Basin State"*.

To date, six riparian states (Burundi, Ethiopia, Kenya, Rwanda, Tanzania and Uganda) have signed the CFA treaty and 4 (Ethiopia, Rwanda, Tanzania, Uganda) have ratified it. To go into force it requires six riparians to ratify or accede to it and deposit instruments with the African Union. Enforcement begins on 60th day of the 6th deposition.

In essence the deal breaker or roadblock is Egypt's proposal to include the words "*current uses and rights*" into the agreement. "Current rights" refers to the 1959 bilateral treaty with Sudan in which the Nile Waters are totally allocated between the two of them except for evaporation losses. This contravenes the concept of *equitable utilization in international law* enshrined in the UN Convention on the Non-navigational uses of watercourses. It is logically unacceptable to the other riparian states.

This stalemate led to the suspension of participation by Sudan and Egypt in NBI[20]. Ethiopia unilaterally started construction of GERD in 2011. Renewed efforts for cooperation on the Abay or Blue Nile led in 2015 to a *Declaration of Principles*[21] which had moved the parties closer together until the current dispute over the filling of the nearly completed dam.

WAY FORWARD

Sankofa is a Ghanaian expression which means going back to reclaim good things of the past. As I write this, war is threatening with troop movements[22], heated rhetoric, and sabre rattling. However, I believe hostilities will lead to a *"lose- lose"* outcome for all three riparian countries in particular and the rest of Africa in general. Instead of a model of water as an instrument of regional integration through which the comparative advantages (Sudan - Agriculture, Ethiopia -Energy and Egypt-Industry) of the riparian nations are harnessed to generate shared benefits for all the peoples of the basin with cross border investments and trade, there is now a serious danger that *a* protracted cycle of war will ensue.

The *"win-win" outcomes* concept envisaged in the Shared Vision needs to be reclaimed and the last article of the CFA (14b) must be negotiated until consensus is reached and the Nile Basin Commission established to manage all infrastructure and resources in a beneficial way for all the basin people.

I conclude with the following: It is critical to adopt the concept [23] that *the security of each member state is essential for the security of all member states, since the peoples of the Basin are bound to swim or sink together.*

Previously published in Horn of Africa Insight at https://www.hornafricainsight.org/post/reclaiming-the-shared-vision-for-the-nile-basinstarting-with-the-gerd

REFERENCES

1 Wikipedia, Meles Zenawi, https://en.wikipedia.org/wiki/Meles_Zenawi
2 Wikipedia, Meles Zenawi. Available at https://en.wikipedia.org/wiki/Meles_Zenawi
3 Water Technology, GERD Benshangul-Gumuz. Available at https://www.water-technology.net/projects/grand-ethiopian-renaissance-dam-africa/
4 Nile Basin Initiative, Cooperative Framework Agreement. Available at https://nilebasin.org/nbi/cooperative-framework-agreement
5 World Bank, Africa Region - Nile Basin Initiative, Shared Vision Program (SVP) Project. 2021. Available at https://documents.worldbank.org/en/publication/documents-reports/documentdetail/497821468768023490/africa-region-nile-basin-initiative-shared-vision-program-svp-project
6 African Union, About the African Union. Available at https://au.int/en/overview
7 Hurst, Harold Edwin, Nile River | Delta, Map, Basin, Length, Facts, Definition, Map, History, & Location | Britannica. Available at https://www.britannica.com/place/Nile-River
8 Nile Basin Initiative, About. Available at https://nilebasin.org/index.php
9 International Water Law Project, Exchange of Notes between Her Majesty's Government in the United Kingdom and the

Egyptian Government on the Use of Waters of the Nile for Irrigation. 1929. Available at https://www.internationalwaterlaw.org/documents/regionaldocs/Egypt_UK_Nile_Agreement-1929.html
10 FAO Legislative Study, Agreement 57 between the Republic of the Sudan and the United Arab Republic for the full utilization of the Nile waters signed at Cairo, 8 November 1959. Available at http://www.fao.org/3/w7414b/w7414b13.htm
11 Centre for Security Studies, Water, Conflict, and Cooperation: Lessons From the Nile River Basin. 2007. Available at https://css.ethz.ch/en/services/digital-library/publications/publication.html/133523
12 Seide WM. Dividends of Cooperation: The Case of Nile River. Available at https://unece.org/fileadmin/DAM/env/documents/2014/WAT/05May_22-23_Geneva/case_studies/6.3.W.Seide_Nile_River_case_study.pdf
13 Baitwa J. A Shared Vision for the Nile Basin, Water Power and Dam Construction, June 12 2014. Available at https://www.waterpowermagazine.com/features/featurea-shared-vision-for-the-nile-basin-4291594/
14 Press Release from The Second World Water Forum, Ethiopia to host the eighth Nile 2002 conference, March 21, 2000. Available at http://www.waternunc.com/gb/secwwf8.htm
15 Alabass, BA. Egypt participating in NBI ministerial committee meeting in Khartoum, Ahram Online.2017. Available at https://english.ahram.org.eg/NewsContent/1/64/260837/Egypt/Politics-/Egypt-participating-in-NBI-ministerial-committee-m.aspx
16 UN General Assembly, Convention on the Law of Non-navigational Uses of International Watercourses, 21 May 1997. Available at https://legal.un.org/ilc/texts/instruments/english/conventions/8_3_1997.pdf
17 ECA, AU, AfDB, The Africa Water Vision for 2025: Equitable and Sustainable Use of Water for Socioeconomic Development. Available at https://www.afdb.org/fileadmin/uploads/afdb/Documents/Generic-Documents/african%20water%20vision%202025%20to%20be%20sent%20to%20wwf5.pdf
18 Assembly of the AU, Sirite Declaration on the Challenges of implementing integrated and sustainable development in Agriculture and Water in Africa, February 2004. Available at https://www.tralac.org/documents/resources/african-union/1540-au-assembly-sirte-declaration-on-the-challenges-of-implementing-integrated-and-sustainable-development-in-agriculture-and-water-in-africa-february-2004/file.html
19 Nile Basin Initiative, Agreement on the Nile Basin Comprehensive Framework Agreement. Available at https://nilebasin.org/index.php/documents-publications/30-cooperative-framework-agreement/file
20 Knaepen H, Byiers B. Understanding the Nile Basin Initiative: Balancing historical rights, national needs and regional interests, European Centre for Development Policy Management. 2017. Available at https://ecdpm.org/wp-content/uploads/NBI-Background-Paper-PEDRO-Political-Economy-Dynamics-Regional-Organisations-Africa-ECDPM-2017.pdf
21 Agreement on the Declaration of Principles between the Arab Republic of Egypt, the Federal Democratic Republic of Ethiopia, and the Republic of Sudan on the Grand Ethiopian Renaissance Dam Project (GERDP). 2015. Available at https://www.internationalwaterlaw.org/documents/regionaldocs/Final_Nile_Agreement_23_March_2015.pdf
22 Egypt Independent, Egyptian, Sudanese armed forces conduct joint military exercise in Sudan, 28 May 2021. Available at https://egyptindependent.com/egyptian-sudanese-armed-forces-conduct-joint-military-exercise-in-sudan/
23 Donkor M. Nile: A Vial instrument for Basin-wide regional integration, Keynote Speech, 22 February 2018. Available at https://www.linkedin.com/pulse/nile-vital-instrument-basin-wide-economic-integration-donkor/

THE 1959 AGREEMENT "FOR THE FULL UTILIZATION OF THE NILE WATERS": THE CRUX OF THE PROBLEM IN THE NILE BASIN WATER USE

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The introduction of the *1959 agreement* between the United Arab Republic and Sudan for the full utilization of the Nile waters notes that the earlier 1929 agreement "….provided only for the partial use of the Nile waters and did not extend to include a complete control of the river waters…." (United Arab Republic and Sudan, 1963: 64). With this aim of "fully utilizing" and controlling the Nile water, Sudan and Egypt signed a new updated agreement on November 8, 1959. Neither Ethiopia nor the other upstream riparian countries, which are the natural sources of the water, were parties to this agreement. As a bilateral agreement between Egypt and Sudan, this agreement has no legal hold over Ethiopia or the other riparian counties. However, the ramifications of this agreement for water use in the Nile basin extends beyond the two countries in the agreement and affects the whole basin and hence merits analysis.

The 1959 Agreement and its Controversies

I. The Spirit

The difficulty with the 1959 agreement starts with its nomenclature "Agreement for the full utilization of the Nile waters." Consider this scenario where two downstream countries with minimal to zero contributions to the Nile agree to "fully" utilize the Nile water, without consulting or including the other (at the time seven now nine) riparian countries. This is a disregard for the legitimate rights of the other countries and their interests. As Ethiopia's Ambassador to Kenya, Meles Alem noted, the agreement is an "*insult to the national prides*" of the other nations in the basin (Ezega News, 2019). This is especially so for Ethiopia, for whom the Blue Nile basin accounts for 70% of its surface water resources and which contributes more than 86% of the annual flow of the Nile. Never in the history of transboundary watercourse-related treaty making has there been such an unashamedly partial legal arrangement.

II. The Numbers

The 1959 agreement builds on what it calls the "acquired rights" (the existing water uses of Egypt and Sudan, which at the time was set at 48 billion cubic meters (BCM) for Egypt and 4 BCM for Sudan) and adds "the benefits of the Nile control projects" to reach at an allocation of 55.5 BCM of water to Egypt and 18.5 BCM to Sudan. (United Arab Republic and Sudan, 1963: 64-66). It even considers environmental losses and allots more than 10 BCM of water for evaporation losses from the High Aswan Dam in Egypt, accounting for the total annual flow of the Nile waters as measured at Aswan (at the time 84 BCM), leaving absolutely no water to the water source countries. This allocation can only be sustained if the other nine riparian countries keep utilizing absolutely nothing from the Nile, and here lies the crux of the problem in the Nile Basin.

III. The Provisions

The fifth section of the agreement under "General provisions" states that "if it becomes necessary to hold any negotiation concerning the Nile waters, with any riparian state, outside the boundaries of the two Republics, the Governments of the Sudan Republic and the United Arab Republic shall agree on a unified view after the subject is studied by the said Technical Commission." Note that this "technical commission" is composed of an equal number of members from Sudan and Egypt. Moreover, the agreement stipulates if negotiations with this commission results in an agreement to construct works by other countries on the Nile, this same technical commission would also "draw all the technical execution details and the working and maintenance arrangements' ', "…. supervise the carrying out of the said technical agreements" and "…. ensure that their (other riparians) consumption shall not exceed the amounts agreed upon" on any agreed upon constructions on the Nile (United Arab Republic and Sudan, 1963: 72-74). This provision further states that should the claims by other riparian countries, which are the natural sources of water, merit the possibility of allocating some portion of the Nile water, it would be "deducted" equally from the "shares"of Egypt and Sudan.

These provisions subject the legitimate claims and water rights of other riparian countries to the scrutiny and judgment of the technical commission and by extension to Sudan and Egypt. The agreement also extends and institutionalizes "veto power" on any project in the upstream states, reminiscent of the 1929 agreement.

The three pillars of current transboundary water laws are the principles of equitable and reasonable use, the principle of causing no significant harm and the duty to cooperate (UN, 1997: 4-6). However, the 1959 agreement stands in sharp contrast to all these principles, disregarding the sovereign rights of other riparian countries to their fair share and foreclosing the future developments of fellow basin states. It places Egypt and Sudan as the self-proclaimed "masters" of the Nile waters and subordinates claims by the other riparian countries to the good will of Egypt and Sudan.

IV. The Implications

Ethiopia and all the other Nile basin countries are not party to the 1959 agreement and as such, they are not legally bound by the treaty. In fact, they, most notably Ethiopia, have all along been objecting to this concord and the other colonial era agreements on the Nile. This is demonstrated by many equatorial Nile basin countries adopting the 1962 Nyerere Doctrine rejecting relics of colonial era treaties and by the multiple aide memoires, communiques and letters sent out by Ethiopia rejecting the agreement and reiterating its inalienable right to use its resource in 1956, 1957, 1980 and 1997.

Still, the 1959 agreement has pervaded Nile water discussions for decades because of its far-reaching implications and sanctioned discourse on the subject matter. The 1959 agreement presumes uninterrupted, natural flow from upstream countries to secure the aforementioned "claimed shares" for Sudan and Egypt and here lies the root of the problem. Egypt and Sudan can only get their self-allocated "shares" if the upper riparian countries do not consumptively use any of the Nile water. The 1959 agreement, in this sense, resembles another dated and myopic doctrine, the doctrine of absolute territorial integrity, which states that downstream riparian countries are entitled to the uninterrupted flow of a transboundary river, essentially curtailing any use upstream. This doctrine, because of its partial, unequitable, and unreasonable premise has been discarded from the realm of international transboundary water sharing.

The supposed "shares" of Egypt and Sudan put forward by the 1959 agreement is claimed at the expense of the legitimate shares of the remaining nine riparian countries, which is at odds with the cardinal principles of international water law.

V. The Repercussions

The Negotiation on the Grand Ethiopian Renaissance Dam (GERD)

There are issues even among Sudan and Egypt as to how much each country is using from the Nile. While Sudan blames Egypt for using more than its "quota" *Egypt claims it is only "relieving" Sudan from the burden of "excess water"* (Sudan Tribune, 2017). Regardless of this controversy, the "current uses" of Egypt and the Sudan is established by the 1959 agreement. Therefore, any scenario, study or argument that uses "current use" as a basis by default uses the 1959 agreement as a starting point. Using this agreement as a starting point for research or analysis will always result in skewed outcomes since the playing field is not a level one to begin with. It doesn't matter whether the terms "existing use," "current use," or "historical use," are applied as a baseline in negotiation. This approach still amounts to accepting and legitimizing the 1959 agreement which involves accepting the zero shares of the other nine riparian countries which contribute the totality of the Nile water. This scenario is an impossibility, a non-starter for Ethiopia. This is why Ethiopia rejected the request to use "existing uses" as a baseline for additional studies recommended by the International Panel of Experts in 2013 in the GERD negotiations process.

The CFA Negotiation

The same conundrum is observed in the process of negotiating the Nile Basin Cooperative Framework Agreement (CFA). After fully participating in the CFA negotiations for 13 long years, Sudan and Egypt would not sign the CFA over disagreements on article 14b. All the riparian states except Egypt and the Sudan agreed Article 14b to read as "not to significantly affect the water security of any other Nile Basin state" whereas Egypt and Sudan wanted the sub-article to be rewritten as, "not to adversely affect the water security and current uses and rights of any other Nile Basin State" (emphasis added) (*Agreement on the Nile River Basin Cooperative Framework, 2010: 25*). The major difference on the mentioned sub-article lies on the need by all water source countries to change the status quo and replace it "a water security for all" approach, while Egypt and Sudan insist on maintaining a status quo which is based on the 1959 agreement that denies water source countries their fair share.

Scientific Studies

The far reaching and distorting impact of the 1959 agreement has even seeped into science and academic writings. Thousands of water resource studies online (such as *El-Rawy et.al, 2019* and *El-Nashar and Elyamany, 2018*) start by assuming 55.5 BCM and 18.5 BCM of water from the Nile as the "shares" or "water quotas" and part of the water budgets of Sudan and Egypt, which shows how ingrained this treaty is in the scientific sphere. Moreover, because there is no fair and equitable benchmark for water use, modelers, scientists, and researchers are pushed into an uncomfortable corner where they are forced to use these skewed baselines even though they openly state that their work is not a justification for validity of these biased arrangements.

Many acclaimed scientists in the field of water resource modeling and management such as *Wheeler et al., 2016, 2018, 2020, Sterl et al., 2021* use the numbers from the 1959 agreement as a basis for running their models. These authors openly write they do not acknowledge or approve of these agreements or their implications for water allocation in the Nile Basin. While this effort is commendable, it is extremely difficult to understate the impacts and the repercussions of these studies. The narrative that circulates in the media is the result of such studies, studies that assess the impact of GERD on the "historical shares," "existing use," and established workings of existing infrastructures in Sudan and Egypt, all designed on the premises of the 1959 agreement.

It is clear that no respectable scientist or researcher would give legitimacy to a system which reinforces a historical disparity and an unjust status quo. But implicitly that is exactly what science based on this baseline is achieving. Regardless of the good intentions and disclaimers of scientists and researchers, the damage is already done if the results of these studies are used for the assessments of harm or impact from the GERD. This is not a criticism of the science behind these studies but rather an inquiry of the premise analysis is based upon, the constraints used in the models and the yardstick used to measure harm caused to other riparian nations.

It is important to applaud and sincerely appreciate researchers who understand the implication of using the1959 allocation when using it as basis for their studies, who call it out and in no way endorse this skewed status quo. However, the fact that so many studies use the 1959 agreement as a baseline provides a respectable façade for this historical atrocity, gives it legitimacy and a semblance of propriety. The scientific community should be cognizant of this difficult predicament when it comes to researching the Nile water use. This mistake of implicitly endorsing the treaty is worse than the intent of the original treaty itself, as this historical mistake would now at face value have the protection of science.

The Threshold for Harm

The 1959 agreement allocated the whole of the Nile water between Sudan and Egypt completely. The Nile is accounted for between use in these two countries skewing the benchmark for measuring harm. Any upstream use, especially consumptive use, would take away from this total share of Egypt and Sudan and be perceived as "harm."

As far as international law is concerned, what is prohibited by law is the causing of significant harm, quite distinct from the causing of harm. As long as the equitable quota of each country is not known there is no way of assessing the legally significant harm on countries. The baseline for quantifying synergies and tradeoffs, harm and impacts cannot rationally be based on an arrangement which has a monopoly (rather a duopoly) on the system. To an entity which is used to enjoying the whole pie, when in fact it was only entitled to a slice, anything less than the whole pie is going to seem unjust and be perceived as "significant harm." However, it is the risk to each country's fair share of the pie (and not the whole pie) that constitutes significant harm. While studies which identify the impact of the GERD or future developments in Ethiopia or other upstream riparian countries can be used for internal adaptation and planning measures of Sudan and Egypt, they cannot be the measures of significant harm or impact on the transboundary or basin wide spectrum.

Foreclosure of Future Development

There is no doubt that the level of infrastructure development in the Nile Basin is quite lop-sided. As such any new development will surely affect the working of prior developments. Let's leave aside the crucial fact that these prior developments were not conducted with the acknowledgement or cooperation of the upstream countries and were completely unilateral endeavors that did not consider future development upstream. Still, the aim of negotiations and science should be to come up with adaptive and collaborative ways of synchronizing the workings of older infrastructure to the new circumstances in the basin and not have the workings of new infrastructures bend back backwards to ensure business-as-usual for existing ones. Sadly, the latter is what most research and interventions are aimed at.

The way the current talks and dealings are going, regarding the GERD for example, are interventions limiting the storage and operational flexibility of the dam, having the GERD bend backwards to maintain the usual operation or steer as little as possible from the current workings of the systems outside the GERD. This is the very definition of foreclosure of future developments.

Such studies overshadow the need for adaptive measures in downstream countries in response to development upstream. There is little talk of sharing the burden and adaptive solutions in downstream infrastructures with the exception of a few attempts (see *Eldardiry and Hossain, 2021; El-Nashar and Elyamany, 2018*). Take the US drafted agreement of 2019; while it proposes multiple stringent measures on the GERD to mitigate impacts of drought, there is absolutely no mention of suggested changes or adaptive measures to be taken by downstream workings (*Ethiopia Insight, 2020*).

Conclusion: Looking to the Future

It is clear there is a fundamental bias when it comes to the use of the Nile, a narrative which has developed over many years, be it in the science, politics, media or public setting. There is a long way to go with regards to leveling off the playing field, getting rid of the bias and installing some semblance of equity. Securing the water needs of Egypt must be detached from securing "historical rights," a concept which does not exist in the lexicon of international water law. Sadly, it would take nothing less than a constitutional amendment for Egypt to come to terms with the concept of equitable and reasonable use as it is committed to keeping the status quo and the "historical rights" of Egypt as a matter of its *constitutional duty* as stated in Article 44 (Egypt's Constitution,2014:19). This is a tall order, but a paradigm shift is necessary in the Nile Basin if the basin is to have any hope for sustainable and equitable use of this shared water in the long term.

There are mechanisms to ensure water security to all the basin riparian countries, without clinging to unjustly claimed water quotas. But without a level playing field we cannot possibly hope to engage in collaborative and integrated water use in the basin. The increasing demands in water resulting from population and economic growth combined with the stress on water resources due to climate change necessitates integrated and collaborative water use. There will be a growing discrepancy between the demand for water and the available supply in the Nile Basin. The way to bridge this gap is to capitalize on the resources of the basin for the benefit of all basin states. Research has shown that numerical water reallocation cannot be an end in itself to ensure long term, sustainable and equitable use in the Nile Basin (*Deribe and Berhanu ,2021*). The future of the basin lies in *regional collaboration* and utilizing the resources of the basin for the benefits of all countries by considering it as a single unit. For this to happen, the first step would be to get rid of the outdated, exclusionist and unequitable 1959 agreement and enforce the Cooperative Framework Agreement (CFA) which would put equitable and reasonable use and the obligation not to cause significant harm and the duty to cooperate as the working principles in the basin. From there we can go on to establish the equitable shares of each country as baselines to engage in collaborative use. The knowledge of equitable shares of countries will open doors for better science and research, rational formulations for thresholds of harm and smoother collaborations for synchronized and integrated basin wide water use options such as physical and virtual water trade, development of co-owned infrastructures, benefit sharing schemes and synchronized regional planning and development plans. It is therefore in the interest of downstream countries to come to terms with the notion of equitable use by disavowing their association with the 1959 agreement – the crux of the problem in the Nile Basin.

Previously published at https://www.weaspire.info/the-1959-agreement-for-the-full-utilization-of-the-nile-waters-the-crux-of-the-problem-in-the-nile-basin-water-use/

REFERENCES

1. Agreement on the Nile River Basin Cooperative Framework (CFA). 2010. https://nilebasin.org/images/docs/CFA%20-%20English%20%20FrenchVersion.pdf
2. Alem Meles. 2019. Talks the best way out of the Nile water rows. The Daily Nation. Kenya. Nov 16.2019.
3. Deribe M. and Berhanu B. 2021. Conceptualization of Equitable and Reasonable Water sharing in the Nile Basin with Quantification of International Transboundary Water Sharing Principles. Chapter 5 in The Nile River Basin and Grand Ethiopian Renaissance Dam: Past,Present and Future. Assefa M. Melesse, Wossenu Abtew, Semu Moges.
4. Deribe Mekdelawit. 2020. The Grand Nile Basin Renaissance Plan. June 11.2020. Published on Ethiopia Insight. https://www.ethiopia-insight.com/2020/06/11/the-grand-nile-basin-renaissance-plan/
5. Egypt's Constitution of 2014. 2014. Constituteproject.org. https://www.constituteproject.org/constitution/Egypt_2014.pdf
6. El-Nashar Walaa Y., Ahmed H. Elyamany, Managing risks of the Grand Ethiopian Renaissance Dam on Egypt, Ain Shams Engineering Journal, Volume 9, Issue 4, 2018, Pages 2383-2388, ISSN 2090-4479, https://doi.org/10.1016/j.asej.2017.06.004.
7. El-Rawy M., Abdalla F., El Alfy M. (2020) Water Resources in Egypt. In: Hamimi Z., El-Barkooky A., Martínez Frías J., Fritz H., Abd El-Rahman Y. (eds) The Geology of Egypt. Regional Geology Reviews. Springer, Cham. https://doi.org/10.1007/978-3-030-15265-9_18
8. Ethiopia Insight, 2020. Why Ethiopia rejected the U.S.-drafted GERD deal. April, 2,2020. https://www.ethiopia-insight.com/2020/04/02/why-ethiopia-rejected-the-u-s-drafted-gerd-deal/
9. Hisham Eldardiry, Faisal Hossain, A blueprint for adapting high Aswan dam operation in Egypt to challenges of filling and operation of the Grand Ethiopian Renaissance dam, Journal of Hydrology, Volume 598, 2021, 125708, ISSN 0022-1694, https://doi.org/10.1016/j.jhydrol.2020.125708.
10. Kevin G. Wheeler, Mohammed Basheer, Zelalem T. Mekonnen, Sami O. Eltoum, Azeb Mersha, Gamal M. Abdo, Edith A. Zagona, Jim W. Hall & Simon J. Dadson (2016) Cooperative filling approaches for the Grand Ethiopian Renaissance Dam, Water International, 41:4, 611-634, DOI: 10.1080/02508060.2016.1177698
11. Sterl, S., Fadly, D., Liersch, S. et al. Linking solar and wind power in eastern Africa with operation of the Grand Ethiopian Renaissance Dam. Nat Energy 6, 407–418 (2021). https://doi.org/10.1038/s41560-021-00799-5
12. Sudan tribune, 2017, Egypt refutes claims of using Sudan's water quota. November 22,2017. https://www.sudantribune.com/spip.php?article64078
13. UN Convention on the Law of the Non-navigational uses of International Watercourses. 1997. May 21, 1997. https://legal.un.org/ilc/texts/instruments/english/conventions/8_3_1997.pdf
14. United Arab Republic and Sudan. Agreement (with annexes) for the full utilization of the Nile waters. Signed at Cairo on Nov 8 November 1959. United Nations- Treaty Series. https://treaties.un.org/doc/Publication/UNTS/Volume%20453/volume-453-I-6519-English.pdf
15. Wheeler, K. G., Hall, J. W., Abdo, G. M., Dadson, S. J., Kasprzyk, J. R., Smith, R., & Zagona, E. A. (2018). Exploring cooperative transboundary river management strategies for eastern Nile Basin. Water Resources Research, 54, 9224– 9254. https://doi.org/10.1029/2017WR022149
16. Wheeler, K.G., Jeuland, M., Hall, J.W. et al. Understanding and managing new risks on the Nile with the Grand Ethiopian Renaissance Dam. Nat Commun 11, 5222 (2020). https://doi.org/10.1038/s41467-020-19089-x

Resource Sovereignty: Beautiful contested vision(s)

ENERGY AND CLIMATE CRISIS: DEFENDING THE PUBLIC GOOD

An interview with Bruce Baigrie

Bruce Baigrie is an associate researcher at the Alternative Information and Development Centre (AIDC) and is currently undertaking a PhD at Syracuse University.

Hibist Kassa: What is meant by the concept of energy sovereignty and why is this important?

Bruce Baigrie: I think if we were to unpack energy sovereignty from the perspective of the sovereignty of the nation and we're talking about a reliable local supply, obviously disregarding the load-shedding since 2007, then in that sense I don't think South Africa has ever really had that problem. If anything we have primarily been a net exporter of energy supporting some surrounding nations. If we take energy sovereignty to mean sovreignty for the people themselves then I think we are going to need to look at it from the perspective of access and affordability. Many South Africans can't afford energy or at least can't afford what they need. The phrase used at the AIDC is energy as a public good. We do not see energy as some sort of commodity for sale for profit, but as something which every human needs, and that should be provided regardless of one's means. Energy is seen as a basic necessity of life alongside things like water, food, housing, and I would add data to that.

HK: You have been a proponent of nuclear energy despite this being an unpopular position on the Left. Can you tell us why you think nuclear is a viable option to explore?

BB: It is only half-true that nuclear energy isn't popular on the left. You are right in that the majority of the environmental movement and environmentalists are anti-nuclear energy. Yet if we were to incorporate trade unions in the energy sector, workers and the working class who have jobs around nuclear energy or live in communities around nuclear energy then nuclear energy remains incredibly popular within these spaces. I would say it's largely the environmental part of the left rather than the left as a whole that oppose nuclear. I would go further to say that many of the opponents of nuclear energy have come out of academia and is quite generational, i.e. younger people are much more open to it This isn't to say that this opposition is baseless or comes from a position of privilege but it's certainly not as widespread as some maintain.

I think the most important thing to point out about nuclear energy is that it's clean power. It is emission free and in the context of the climate crisis, there's nothing more important than that. The other advantage of nuclear energy is it's baseload power and thatis has the highest capacity factor of any energy source Capacity factor is measured by how much energy a source produces over its theoretical potential of producing 100%, orall the. If you look at solar and wind which only produce energy when the wind blows and the sun shines,those capacity factors are much lower between 20-35%, offshore wind does better though. Nuclear energy has 90% capacity factors compared with coal which can range between 70-80% so it's a very effective means of generating power, generating electricity.

From that standpoint, it's an incredible use for powerful technology and if you look at countries with large nuclear penetrations in their power mix, you are going to see very low emissions per capita. So it's so incredibly powerful technology from a climate perspective. There are various supposed drawbacks which I would dispute. One is that nuclear is dangerous. The data clearly shows that it isn't, in terms of how many people have died per kilowatt-hour of nuclear energy produced, tt ranks alongside wind and solar. A lot of these big events like Chernobyl or Fukushima are very misunderstood. Then there is the waste. Nuclear energy produces very little waste, much of the waste is recyclable and increasing amounts are as the technology develops. The waste that cannot be recycled, is incredibly dangerous, and there are means of storing it safely. So again you can't just say that because it produces some bad waste that we need to abandon this technology that is so effective in reducing emissions.

There are other pros with nuclear energy, but probably the biggest disadvantage of nuclear energy is that it has very high upfront capital costs, takes a long time to build and initially is very expensive. It takes a long time to pay off those costs. So, if you are a private investor, it is much riskier as the project has a longer build time, there is more risk if something goes wrong and the project is delayed. That is a primary reason why nuclear energy is falling out of favour. The most successful nuclear energy power mix requires public sector support because the public sector is generally going to invest beyond the need for returns, beyond the need for profitability. If you have a a relatively strong public sector like France had in the 70s and 80s, you can do a very successful nuclear build-out. France now intends to build 14 new reactors by 2050.

That brings us to the South African situation and why some serious caution is needed. Our public sector is in crisis, the government struggles to do any sort of infrastructure rollout without problems, without corruption, so it is understandable that people would be nervous about the current government embarking on a nuclear build programme. Until the state is in a much better position, South Africa should hold off on building nuclear energy but we should not write off the technology especially if the goal is to reach net-zero by 2050.

HK: I would like to find out more about the disposal of nuclear waste.

BB: You can generally bury it underground, the best example to look at now is what Finland is doing. Finland has a relatively high amount of nuclear power plants and you take the worst of the waste and seal it underground in concrete, it is completely safe. You need to make sure that geologically it's a solid environment. You don't want to store your waste somewhere where there are earthquakes.

There is a philosophical problem which is that this waste is going to be radioactive for tens of thousands of years. What happens if society collapses and rebuilds then people stumble across this waste site and they don't recognise the signs, the language might have changed and they keep digging and then find the radioactive waste so the people who manage these waste storage facilities are trying to think of signage that would never be misinterpreted. I think this issue pales in comparison to the climate crisis and who is to say that in 50 to 100 years that we don't have nuclear technology in which can we reuse this waste or we have even safer disposable methods. I think just some statistics, it's about 4% of nuclear waste that cannot be reused and of that 4%, 1% is radioactive beyond 300 years. So we are not talking about a vast amount of waste.

HK: How do you also respond to the challenge that we would be reduced to importing technologies from the Global North if we pursue an energy strategy that is centred around nuclear energy? We, in the Global South, would not be in a position to exert our sovereignty over technological and knowledge systems in nuclear technology.

BB: The North vs South debate is often quite unhelpful. China is about to embark on a massive nuclear build-out. Argentina is going to build their own three new nuclear reactors , butperhaps Argentina is not considered part of the South. If we look at renewable energy, the overwhelming majority of parts for the technology are produced overseas. We imported 100% of our solar panels from China in the last round of Renewable Independent Power Producers for Energy.[1] The countries that are best at building nuclear energy are generally in the Global North but it is the same for renewable energy. If we wanted to do these things, we are going to have to start building the industry here and one difference between nuclear and renewables is that nuclear energy requires far more skilled labour to both build and run. But this is not an argument against renewables, just one in favour of nuclear energy. The two should not be pitted against each other.

In terms of skills , South Africa, as I understand it, has had some brilliant and top nuclear scientists and we of course still have Koeberg which is overwhelmingly run incredibly smoothly. I suspect that it is just not true that we don't have nuclear skills and capacity, I believe there are departments in some of our universities that specialise in nuclear energy. I think we've lost a lot of people and I did hear an anecdote that some people who were nuclear specialists left the country but what's to say they can't come back? I would not write off nuclear energy for any of those reasons. Whatever kind of path we go down this is going to be a challenge of local industrialisation, building skills and capacity locally and we have to do that.

Another issue is this pushing for technology sharing. South Africa is in a far better position than so many other countries which are all going to need to undergo these low-carbon transitions. Many of these countries have to build their energy sectors from scratch. I think it's really important that these technologies that go into the production of clean energy need to be shared with the rest of the world.

HK: There are currently plans to remap South Africa's energy system. Yet you argue that current reform plans are stealth privatisation. Can you elaborate on what you mean by this?

BB: Some people, when they talk about unbundling, will say it is about privatising Eskom. It is not about privatising Eskom, no one is going to want to buy Eskom generation, it is not profitable, it is in disarray, its coal fleets break down so no one wants to buy that. Then in terms of the transmission grid, it is not to say that that would not be appealing to some private player but it's not on the cards as no one is talking about Eskom's grid being sold.

The process of unbundling is to separate Eskom in three separate entities. And by doing so the aim is to to progressively privatise energy generation in this country and to do that, they need Eskom to get out of the way. The less energy that Eskom is generating, the more energy needs to be generated by the private sector and that's really what the name of the game is now. By separating the generation and transmission entities, the goal is to make sure that the transmission side of Eskom doesn't discriminate against the private actors who are generating energy. This is what we mean by 'stealth' privatisation.

You will hear people talking about something called an independent transmission operator. The private sector wants to know that when they produce that power, Eskom transmission is not going to favour Eskom generation and what they likely want is for them to be favoured instead. What they want is the transmission operator when that is accessible when there was a surplus of power on the grid which there will be with renewable energy because it's variable. Transmission is what is going to buy the energy from the generator then sell it to the users. These two areas of energy are being bought and sold. From the side of transmission buying from generation, Eskom is going to eventually lose out as things stand where transmission is going to buy less and less energy from Eskom. It is going to favour the new private entities that are coming in and this will be a slow death of Eskom's generating capacity in favour of a private generation landscape. This death seemingly won't include Eskom's significant gas plans, but again, this is likely just to back up private renewables.

Eskom needs to embark on its own renewable energy build-out to replace the energy from its coal power plants. These plants need to be shut down because they're killing the planet, they're killing thousands of people who live near them. These coal plants need to go but Eskom needs to be replacing them, not the private sector.

HK: AIDC has some proposals as to what form that the Eskom reform could take. What is your view on how Eskom be reformed?

BB: We probably need to start with Eskom's perilous financial situation. It is in a severe financial crisis so the government would need to come up with a plan to deal with that debt and there are various ways of doing it. The debt needs to be relooked at because some of it is odious, as it was of no benefit to Eskom or the South African public so that debt should just not be paid. There is other debt which Eskom is doing quite well to recuperate. The current CEO has managed to cancel some bad contracts, he's just renegotiated some others and is trying to renegotiate some of the private renewable energy contracts. They are clawing back money from Eskom that was stolen. However, it is also trying to claw back funds from indebted municipalities and raising tariffs which has a range of awful implications. But none of these is going to deal with the debt completely and now some of that debt is going to need to be taken on by the government.

The AIDC, throughout its economic justice work, says that we need to use public funding that is available and that is overwhelmingly held at the government employees' pension fund and is managed by the PIC. The AIDC's analysis shows that the pension fund is massively oversaturated, you can take vast amounts of funds out of the pension fund without coming close to endangering those pensions. A lot of people would get their backs up and say you know you can't possibly take workers' pension money to save Eskom, but the AIDC's analysis shows that a lot of the money in that pension fund is not just from worker contributions and money can be taken out of that fund very safely.

Funds are available to solve Eskom financial situation and the sooner that happens the better. Once Eskom is on a sound financial footing, then it needs to start investing, it needs to start building our renewable energy. I'm not an expert on how to do that but clearly, it's going to need to borrow money and once it is on sound financial footing, it should be able to access much cheaper financing than other entities. It needs to start building serious capacity here which it likely doesn't havebut I don't see why they can't source help from overseas. There are other public utilities like the one in Denmark, various others could come over and Eskom could draw on them to build its capacity. We have a growing photovoltaic industry here and that industry can be supported by Eskom. I think once the financial situation is sorted it just needs serious political will and then Eskom can start building its renewable energy and I would say somewhere down the line start looking at nuclear energy and deal with the variability of renewables.

HK: In thinking about the privatisation process, can you also explain to our readers the impact this has had on energy poverty and inequality at the provincial levels, and between households and communities?

BB: It would not be true to say that this current privatisation process has had a big impact on the working class and poor. Overwhelmingly the problems of Eskom with respect to its finances and operations are Eskom's problems, although we can't strictly divorce its history of corporatisation from this. Also, Eskom was completely ripped off in the opening rounds of renewable energy. It overpaid massively for these power purchases agreements with private renewable energy companies. They were charging, in some instances, five times the cost of Eskom producing its own power. Those costs have come down significantly to the point where new power purchased from these entities is going to be cheaper than Eskom building a new coal power plant but initially, Eskom was ripped off and that's what the CEO now is renegotiating. These private producers account for a small amount of energy bought by Eskom but account for significant amount of Eskom's costs. But while significant, the costs were overblown, and I think deliberately. Figures related to this are widely misunderstood because of how Eskom reported them. Eskom factored in too much of the costs of the renewable energy and not enough of Eskom's existing fleet.

But it's looking like the job conditions at these private renewable plants are not good. There have been reports of workers being unable to unionize. [I would suspect] that they are being paid far less than their counterparts in Eskom so that's something which needs closer attention as well as how many jobs in operations vs unskilled jobs in construction. If we look elsewhere in the world this is a trend as the private sector comes in builds renewable energy. They are not getting the same kind of employment as they traditionally got around other sources of energy.

HK: Thinking about the proposal from AIDC about using pension funds managed by the PIC, how can you develop connections between communities, labour, the rural, urban and women's organisations? How should the left and socialists and progressives in the country be thinking about the crisis facing Eskom?

BB: There are numerous connections that can be made. Maybe the first one to start with is jobs. If you are going to build a low-carbon economy you have to electrify everything, all these things which have traditionally run on fossil fuels. These are not just our power plants but our cars, industrial processes, these are now going to need clean energy to run on. We are going to completely reconfigure transport, we are going have to build electric vehicles but more importantly we going have to build public transport networks with relying on electric trains and electric buses. There is a massive role for green hydrogen as well, but its development is going to be far more difficult that government and business are portraying. All of this is going to be a kind of unprecedented project and if done correctly and on the scale required it will produce unprecedented numbers of jobs.

South Africa has many crises but I would posit that unemployment sits at the top of that, so it's a huge opportunity. For Eskom to lead the way around this, is going to produce the most jobs in any of these scenarios. I maintain that Eskom is the best entity to do it and that brings us back to the question we were talking about nuclear and the importance of public-sector investment which is not constrained by concerns of profitability. Whatever we build for the public sector is going to be less hamstrung by profit motives so there should be more jobs accompanying that increased investment.

Something we haven't talked about, something I haven't expanded on, is this idea of energy as a public good. This is another thing that Eskom is in the best position to do. It is to say Eskom is a public utility and the public sector, the government, we are going to use public resources to subsidise Eskom's production and sale of electricity so that everyone can have access to affordable electricity. If you continue to privatise this process, to keep with the full-cost recovery model, you can kiss that goodbye. So if we want energy as a public good, then workers, unemployed people, communities all have a huge stake in this so there is a potenial alliance here.

The same principles of saving Eskom, around public spending and breaking with austerity, are principles that we need to apply to other sections of the economy. So again there is overlap in working-class interests in terms of saving Eskom. Then there is the climate crisis which is the overwhelming effect of working-class people and poor people. Rural communities are going to bear the brunt of this. So turning Eskom around, transforming it from what it is towards one that produces clean energy and is actively driving the transition towards a low carbon economy in the interests of the working class and poor. I think it's important for the environmental left and environmentalists to also understand where workers are coming from. Workers have fought hard to get good jobs, good wages and benefits. Saving Eskom must be at the centre of South Africa's energy politics. It's something which the left should get behind so that we don't alienate workers and organised labour, in my opinion our most powerful, and thus most important constituency .

HK: What about industrial policy? This is another sore issue on the Left where some have openly called for a degrowth agenda. Do you think the latter is misguided for developing and emerging economies?

BB: Yes absolutely. I am against degrowth. I think a lot of the motivations for degrowth come from a good place, but I think they generally living in a fantasy land. The overwhelming majority of the world is going to need to grow. People do not have access to energy throughout much of the world. People need housing, public transport, we need to grow. A lot of degrowthers will say they agree about the imperative for growth in the South and that degrowth just needs to come from the Global North. But this is also wrong-headed in my opinion because the Global North is still capitalistic and produces societies of class hierarchy where the majority of working people do not have access to enough. You cannot go to poor people where I am in the United States and say to them "You need to 'degrow'" and you have too much. It is politically unviable. Also there is more evidence to show that one can decouple one's effect on the environment, particular one contribution to climate change, from economic growth. Certainly, no policymaker in the Global South is considering degrowth. The focus is on decarbonising economies and and making sure that that growth is distributed to the people that need it. As we know, a lot of countries have experienced growth but this hasn't translated into serious benefits for working-class and poor people. This is really where our focus needs to be.

HK: Do you think that the principle of 'Common but Differentiated Responsibility' is doomed to become irrelevant? Is this a principle that the Global South should continue to deploy in multilateral processes to have practical outcomes?

BB: I think every country in the world needs to decarbonise, it does not matter if you are a country in the Global South that was once colonised. I think the argument that this country should be allowed to burn fossil fuels is complicated. Fossil fuels emitted anywhere affect everyone so no one should build an economy dependant on fossil fuels. That said, certain countries, with no energy infrastructure, may requiresome intermediary fossil fuels but these should be fairly negligibale in the grand scheme things.

There is this element of Eurocentrism that exists. People still think that the real question is around these Global North countries, that the onus is on them to decarbonise. The reality is they are decarbonising, they are not decarbonising fast enough but they are decarbonising. It is in parts of the Global South that the remaining carbon budget is likely to be blown. So the question is what's going to happen in countries like India, China, Indonesia. These countries are the ones that will need to decarbonise the fastest. Should those countries receive support from the Global North? Absolutely.

To come back to the original principles that guide this, yes, the Global North needs to pay for a lot of this. Countries in Africa, all others that have been colonised, that have struggled under economic imperialism, need to be supported. They need concessional finance. Any concession refinancing, which allow them to build a low carbon economy also comes back to something that I talk about earlier technology transfers. These are the kind of measures that are required. No country should be allowed to build out a massfossil fuel economy just because it might be easier, we don't have time for that anymore.

HK: In practice, we also know that the Global North has not been forthcoming in terms of transfer of appropriate technology or in terms of development financing, even though it is a campaign that has been building up. There is also the matter of the ecological debt owed to the Global South. With this in mind, what is the way forward for countries in the Global South, especially those that are fossil fuel dependent? What does this mean in terms of their development strategies? Some countries would suffer an economic downturn and might not even be in a position to turn away from fossil fuels.

BB: I would be cautious of a government in the Global South saying we can't transition and that we need these fossil fuels. It is a nice excuse for them with respect to certain projects they want. I think if we concede entirely to that argument, we disempower activists and left-wing social forces within those countries because there is almost always something that those countries can do. This is not to say that it won't be difficult for them, they will be economically disadvantaged and it might be difficult for them. Like I said, many may well need some fossil fuels, natural gas in particular. I think these countries need to form a more unified block, to perhaps have a stronger message so that they can negotiate with a bit more strength when it comes to climate talks.

Now to an extent, they are doing that and so the question would have been also how can one build more pressure and I would say this concept of internationalism is important here. Activists from these countries should be building alliances with activists and social forces in the Global North who can pressure the governments to do more. To say, look, we have a responsibility to support these countries, to help finance the transitions and to say you know if we don't, then we're all going to fail. Coming back to what I said, the Global North can decarbonise but if the rest of the world does not, it is not going to matter. Climate change is going to hit everyone.

HK: What are your thoughts on civil society engagement at multilateral processes, particularly the COP process? What would you say needs to be done differently?

BB: We need to have a focus on workers. Around the world much of civil society and the environmental left have disconnected themselves from organised labour. This has been a historical process and when you look at the organisations going to the COP, if you look at the demands around the COP from environmentalists and the sections of the left, labour is not really there, or if it is, it's very rare. Demands need to focus on making sure that workers are protected and not left behind, but that also mean that their job conditions are going to be good. Also, parts of the left have aversions technologies like nuclear, but also to carbon-capture storage. This is misplaced, and labour are for these technologies that should be roled out at utility scale. It is just about really taking on this narrative that the private sector and the market are going be our saviours when it comes to building clean energy. We need the public sector, public sector investment and public sector jobs that are also conducive to helping build organised labour, although of course, we especially need unions in the private sector. I think that is something that activists who are involved in this need to grapple with more.

NOTES

REFERENCES

1 Republic of South Africa, Renewable Independent Power Producer Programme, https://www.gov.za/about-government/government-programmes/renewable-independent-power-producer-programme

RESISTING EXTRACTIVIST DEVELOPMENT

Interview with Nonhle Mbuthuma

Nonhle Mbuthuma is the Spokesperson for the Amadiba Crisis Committee

Hibist Kassa: Could you share with us about the Xolobeni community?

Nonhle Mbuthuma: I am the spokesperson of Amadiba Crisis Committee. The community of Amadiba is one of the rural areas which is under traditional authority. The Amadiba Crisis Committee was formed in 2007 but the struggle started before that because the Mineral Resource Commodity (MRC), the Australian company, arrived in early 1996 in our community. At that time the struggle kept going back and forth. We decided to form the Amadiba Crisis Committee because the traditional authority is our traditional government or local government. We are trying to separate in order to not make our traditional authority biased because they are handling everybody whether you are for or against. That is is why we decided to form Amadiba Crisis Committee where we are focusing on fighting against mining. The land where we live is an agricultural land. It's an ancestral land. It also has a history of dating back to the 1950s and it's one of the areas that have not been disturbed. Our community is of those that have not been moved by force. When we say no to mining it is because we have a history behind us and it supports us. Our ancestors fought for that land so that today we survive, today we live in a peaceful environment.

HK: Can you tell us a bit more about the 1950s?

NM: In the 1950s, there was the Pondo revolt. It was the beginning of the Pondo revolt where the colonial power was trying to colonise the whole of Pondoland, not only Amadiba. They were starting on the Ciskei; before 1994, there were the Ciskei and Transkei regions. In the Transkei, which is my region, the resistance was strong. People were not being shaken and many were being taken to be killed in Pretoria. But they did not give up because the colony was trying to tell the amaPondo that "we need to reserve land for development". They wanted to push us into a position where our households would be squatted in one place. They wanted to reserve the grazing lands and were calling that a "betterment plan" and cutting up our land. The AmaPondo were not believing in that. I am very proud of our ancestors for not believing that because they were telling the colonial government that "if you cut the land into pieces, you are separating the human being from nature which is killing the human being because in order for us to survive we need to live close to our fields, we need to live close to our grazing land and black people can live longer if they're living like that." But if you put a human being somewhere there and the land somewhere there, you create poverty, a dependence syndrome because people are going to stop walking that distance. Your garden should be closer to your home and your livestock should be closer to your home.

Today, the mining company also says we must move towards 'development'. Now that colonial government comes back to our minds. What kind of development is one without the people? If the development is there to develop us, it needs to be built where we are. We shouldn't have to move in order to develop. Who is going to be developed behind us? That development is not for us, it's for someone else. They keep saying that mining is going to develop the Amadiba, but you need to move. When you move us who is going to be developed behind us? It's clear for us, that development is not for us and we keep telling our own government. We keep reminding our own government that what our ancestors fought for was a right cause, because right now we are not starving and we have a home which is important [to defend]. We have land. We have shelter. We have water, because people respect nature. They respect the culture. When there is no culture, when there is no nature, the life system is gone. But they always put mining as the alternative to a life system, the life of a human being. If you have the mine and then you put the people away from the land, you're going to employ the people. But the question is how long will the mining last? It's short-term but right now I can guarantee you, where I live, every household does have food. Even if the country goes to lockdown level 5 today, we will not starve because we do have land.

HK: What do you mean in terms of the culture and the life system that you mention? How was life in the community in the past and what are the new things people are doing to survive now?

NM: Culture is part of the African people that respect nature. Once the culture disappears, people will no longer respect nature. Because, when there is culture, for example, people will know that "this medicine is important to me, in order to respect this medicine, I need to have a culture." There are some trees where we believe that if you have twins, that special should be a plant in your household. That is why, when it comes to diversity, our community is the hotspot where you can find all the types [of nature]. It's not that people don't want to vandalise the nature, but they respect the nature. People know that "when I harvest emoti, I must harvest emoti in a way that people can benefit because this is a good thing. It's not for selling but it is something that is important to me in order to live long". When I talk about livelihood, what we are doing right now and what our ancestors were doing then, is to produce food for ourselves and is to keep the seeds for ourselves. We are not buying the seeds. We are keeping the seeds, and those seed rotate. They go to the next generations. The more people see that it keeps people united, and tells people to respect each other, to love each other. This culture, it helps people love and care for each other.

For example, barter exchange: If you know that that family does not have livestock, you think "no let me do that and let me share". You know sharing is very rare these days but my community has the kind of culture where if I left my child at home with your children, there is no problem. I'm not worried that my child will be stolen. Right now in the whole country, women and children are not safe in this country but nobody asks what the cause of this is. The cause of women being murdered is because communities are being pushed out from the land and once people have nothing to do, they are unemployed. What else? They will try to do something new, where they can get money in order to buy food. Because all in all, people want to feed their families. I am very proud of our community to say that we are feeding the world. We are harvesting sweet potatoes, we are harvesting yams and veggies, everything is there. We are self-employed. We are not employed, but if the government could recognise the self-employed, it would see that people can govern themselves and not to be dependent on employment. Because right now, what is happening with the COVID-19 pandemic is that there is a hell of a lot of retrenchment, and we are worried about what is going to happen to this country. But if they keep pushing the communities away from the land, what country are we building?

HK: Tell me more about other activities, for instance materials to build your houses.

NM: Where we live, we buy something that we do not have, or is not around us, but when we build our homes, we build in a sustainable way. For example, the poles were from the forest, and you can see how people thought to be environmentalists when going to harvest the poles. Otherwise, if people did not think, if they did not respect the culture and the livelihood, all the forest would be gone. But today we still have a lot of forest. Although people were cutting the forest, they were cutting in a way that the tree can grow more. You're not just vandalising to cut the tress.

We use the sand that is around us from the rivers in a way that we rehabilitate. This is because we use the sand not for selling; we are just building our own homes. But it's unfortunate because most of us are living most in a rondavel. The mining company's use this fact to undermine our culture, our tradition. They say that these houses that we have, which are rondavels, are not so good. But it is better for us to live in a rondavel, which is thatched in the roof, because in winter its warmer and in summer its cooler than iron. But the mining company says that we are not modern. They will build us the best rooms in the other places where they will remove us to.

We are still living in a traditional way, the brother in laws and the mother in laws are living in the same household- and that is why we are building [more] rondavels. But the mining company … when they build, they will build a four bedroom which is totally not us. You can imagine sharing your room with your in laws. But they [the mining companies] never think about that. They think when we build rondavels, they are not important. They said we are the poor of the poorest, but for us we know why we build the rooms like that, and we are happy. And we also know that our ancestors know the rondavels not the square house when they passed away. When we do these rituals, we use the rondavels to speak to our ancestors. When things are not so good, we speak to them to ask some help, to ask some guidance because we believe that wherever they are they are still watching us, they still lead us. When you build the house that is completely against our belief, what are you trying to do? You killed the tradition and the culture of that community.

HK: What are your energy sources and what is the role of the women in the community?

NM: Right now, we still use the firewood. I understand, especially us as women, we need to go the field in order to feed the children. We also have to take care of the household at the same time and also the children at the same time. It's a lot of work. But if our government can be supportive with solar energy, instead of us going to dig up the coal [then that would be great]. Solar energy…[can help] prevent event global warming. Global warming is here and it's real. And it is affecting us, it doesn't matter if you are rich or poor, it will be all of us being affected. That is why we are saying that if the government is serious about doing things better [it should provide support for solar energy]. Mineral resources are already outside, there is no need to dig more minerals…

[We have] said that in order to minimise the load to the women, solar energy [should be promoted]. If this country can have a company that can teach the women how to build solar energy [that would be good]. The fact that there are no skills is also going to be a problem. But if the women are given that opportunity to have a factory and are being taught how use solar energy then the problem will be solved. We cannot have a monopoly in solar energy and it cannot be based on a tender system. We need to teach the people in to know for themselves.

We are no longer talking about Socialism anymore, where people must work together. [But] this is what we are doing in my community right now: [We] work as a community, together. Yesterday I was harvesting my sweet potatoes, but you would think those people were employed, but they were not. You just tell people that “I need to harvest this much because I need to sell” and then people come because they know that in return when somebody needs to helped, you will be helped too without needing a payment.

HK: What are your views on the concept of Free Prior and Informed Consent (FPIC) as the Amadiba Crisis Committee?

NM: Since we have been fighting mining here, we decided to take our own government to court where we said that we have a right to say no. We realised that when it comes to ‘development’ there is only the right to say yes. There is the right to say yes and the right to say no, this is a right to decide. This is not a right to be consulted. This right to be consulted is [effectively] people coming to tell you that you have to move. But you have no right to say, “no I don’t want to move”. This is why we say consultation is not enough. We need to give consent on whether we want to move or don’t want to move.

Why are we not treated the same [as every other private individual]? Because on private land, they have those rights. But when it comes to our communities, we don’t have those rights. We just have a right to be consulted. That is why we said that before the mining company gets any mining rights, we as the community must give consent and not just be consulted. The right to say no is also the right to choose which way we want to live.

Consultation is not enough. We say we need to give consent and we are not going to change our minds. We know that our government was not thinking that a rural community in Amadiba can say “no”. Democracy must be democracy for individuals, not for the mining companies.” Communities like us need to benefit from this democracy and we cannot go back to where we are being forced.

They cannot use the same system [of forced removals] in our democracy. It’s a pity when I see the new laws being pushed by parliament. They just take one step ahead and ten steps backwards. The Traditional Leadership Khoisan Act that is being pushed in parliament says in one of the clauses that when it comes to investment, the investor and the traditional leader can take a decision without talking to people, without people giving consent. What the hell is that?

That is why here at Amadiba we say that if they government is doing the right thing, they must practice the democratic system [for all]. That is why we said that FPIC is the best for all, not just for us but for both the communities and the mining companies. The environmental issues are affecting us, the communities, not the mining companies. Look at what is happening in Mpumalanga right now: It is pollution left, right and centre. Where are the mining companies? What is the government doing about that? Nobody even thinks that people are dying due to the things being done by the mining companies, but the government is nowhere to be found. Some mining companies even quit and leave the country with holes in the ground, and they are not even making these companies accountable for what they have done to our country. Yes, as a country we are very rich in terms of our minerals. But we are the poorest of the poor countries even though we have those minerals. This is because our government can't make these mining companies accountable for what they have done to our land.

HK: What was the feeling at the end of apartheid? What did people think the end of apartheid would mean for the community?

NM: After '94, we were all singing happy that our government is going to think for us, our government will be with us. We never thought today there would be more assassinations of activists fighting for the land like what was happening during the apartheid government. We never thought like that. We feel a pain and we are asking ourselves; how did we find ourselves here? Is this the democracy that ancestors fought for? What were we fighting for? Were we fighting for the right to vote? Or were we fighting for the right to vote and the right to the economy? Those are the questions that we have. Right now it is clear to us what we won after 1994 is the right to vote because that is what our government brought. But when it comes to economy, the economy is still in a few hands, it is not in our community. But our own government is busy pushing us to make sure that those little communities who have control of their own economy must be given away. Why is it like that?

HK: What role can the trade union movement play in ensuring a more just mining regime or economy more broadly?

NM: Honestly, when it comes to the trade unions, I think something went very wrong with the trade unions because trade unions are there fighting [for] their own workers and communities are fighting for survival. There is no link between the trade unions and communities. I can understand why, because the trade union believe in creating jobs. But those jobs are short term or long term. That is why there is no communication between the community and the trade unions. And the trade unions right now, you don't know where they are going while the retrenchment rate in the country is getting higher. We don't see them as active as they used to be. Something is not so good. That is why I was saying before: I think we as a country are no longer leftists. The Left is shrinking but the Right is getting better. That is the situation and it's my theory when I look at what is happening in this country.

Reviews of Books, Music and Poetry

EXTRACTIVES INDUSTRY LAW IN AFRICA

Damilola S. Olawuyi.
Springer Nature Switzerland AG, 2018.

Reviewed by Rachael Nyirongo who is a Research Assistant at IFAA in Cape Town, an attorney in possession of a Baccalaureus Legum (LL.B) degree from the Nelson Mandela University and a Master of Laws (LL.M) degree in International Human Rights Law from the University of Cape Town.

With this book, Damilola sets to address a gap in the existing literature on mining in Africa by taking a more holistic approach. Particularly examining the legal, fiscal and institutional frameworks currently applicable to commercial mining in Africa. The book is targeted at individuals in different areas of mining engagement from students to policymakers and cooperation's to investors, cognisant of this approach the book is very user-friendly and goes into great depth on each topic it covers. It addresses an array of topics including environmental and human rights impacts of mining and how legal reforms could be approached to achieve a sustainable and rights-based extractive industry on the continent. To ensure the research is not restrictive, research and examples from various countries that have regulated mining with different approaches are given. One of the earliest threats identified is the over-dependence on oil and gas resources in many countries as well as the poor governance that leads to major losses from illegal mining annually.

The author recognises that human rights did not play a role in African mining until as late as 2006 and since then the government have been favouring the implementation of a rights-based approach. Furthermore, it should be appreciated that the book was published as the African Continental Free Trade Area (AfCFTA) was founded in 2018. The book looks at the mining industry in three parts, first, the book focuses on the current structures of African mining. This goes into the extensive background and current political influences and infrastructure that make the industry we see today. Through it, the authors concluded that there is a need to reassess the frameworks and institutions targeted at solid mineral development as a step to moving away from dependence on oil and gas, to attract more investors in the sector and to prevent problems such as corruption and human right abuses. Very crucially, the improvement of energy infrastructure is dissected and understood by the authors to be crucial in developing this industry in a manner that will also benefit local communities.

Second, the book delves into what the authors refer to as a 'data deficit' of the Africa mining industry. The chapters to follow extensively deal with the existing laws that regulate ownership, the extractive industry law, analyses the regulatory institutions, the legal rights and interests of organisations and states, contractual and fiscal agreements between the state and investors and finally local content requirements. Through the intensive investigation into all these areas, it is clear once more that what is lacking is a framework and partnerships between states to develop the extractives industry in a way that will provide the best economic benefits for all. Once again affirming the need for the AfCFTA, as collaborative efforts will need to play a leading role in developing the sector.

Third, and most appropriately, threats of developing this sector are considered in great length. The authors closely consider the environmental impacts mining have on communities and the responsibility of companies to follow the required steps in securing community participation, otherwise, they run a high risk of not only incurring extensive costs due to litigation but also stalling work in the mines if they do not comply with the environmental and human rights laws protecting these communities as states have increasingly been enacting more laws on those two areas. Moreover, states need to strike a keen balance between having frameworks and laws in place that mitigate risks such as corruption and illegal mining whilst still presenting the state in a way that is attractive enough to bring in foreign investors.

This book not only manages to look at the mining sector holistically, it also impressively presents the information in a simple yet intensively informative manner and manages to present an analysis of the industry on a continental level.

A PEOPLE'S GREEN NEW DEAL

Max Ajl
Pluto Press, 2021

Reviewed by Brian Kamanzi, Institute for Economic Justice

Ahead of the COP26 global summit, the Intergovernmental Panel on Climate Change (IPCC) issued a grim warning against the continued use of fossil fuels in its 6th scientific assessment report. The "Green New Deal" (GND) debate, emerging most the United States, offers a vision of a new social compact where a socio-technical transition from an existing - but shrinking - fossil fuel heavy industrial base to the manufacture and use of clean energy technologies along with an expansion of social security protection benefits. Max Ajl's sharp treatise "A People's Green New Deal" intervenes in broad church left debates warning against eco-nationalism, the risk of entrenching neoliberal economic structural reforms and emphasises the importance of identifying radical reforms which have revolutionary potential.

Ajl begins with a critique of "Green Capitalist" iterations of the GND which jointly tackles the creep of neoliberal economic thought embedded in the increasingly popular version championed by US congresswoman Alexandria Ocasio-Cortez which undermine its social democratic aspirations. The "Green Right '' which champions outright neoliberal reforms have treated environmental problems as "externalities' ' to be resolved through the design of compensating effects. These demands range from the commodification of solar and wind energy resource potential through various private power trade mechanisms, to carbon taxes, to calls to green the US military.

In the case of the social democratic platform, Ajl contends the latter sows the seeds of its own destruction. This version of the GND, while calling for active divestment from harmful industries, shows no intention to challenge capitalist accumulation in emerging sectors based on new technologies while blatantly ignoring the question of climate debt/reparation. Climate debt and demands for related reparations have historically called on industrial nations, who have historically benefitted from patterns the cheap resource extraction and immense wealth accumulation, to understand compensate impact nations and communities as part of their obligations to address the impacts of Climate change. Cantering the question of Climate debt and reparations, for Ajl, necessarily involves an anti-imperialist analysis which must contend with both the historical and continued power imbalances between the Global North and South.

Ajl warns of the growing enthusiasm of international finance instruments (World Bank, IMF, European Investment Bank, among others) in leading Climate finance discussions as signalling the co-option of clean technology systems based on clean technology as simply representative of new asset classes. The book observes that technology itself is not neutral and urges that simply nationalising private enterprises, who currently command its use, does not itself constitute a fundamental shift in relations. "A People's Green New Deal" highlights the importance of rejecting false solutions to the crisis by empowering radical popular movements to build alternatives. These alternatives would focus on developing social interdependence by deepening local democratic control of industry and state institutions capable of ensuring basic service delivery. Simply put, without fundamental transformation in the relations of production, the world system of capitalist accumulation will remain intact, reproducing inequality through exploitation and dispossession.

The book makes a clear call for an anti-imperialist version of a GND or Just Transition which seeks to break ranks with imperialist powers. Ajl argues nations in the Global North are looking to use climate targets and the urgency of the crisis itself to dictate the economic and fiscal policy of nations in the Global South. Furthermore, there is acknowledgement that the peoples in the Global South, while historically only marginally contributing to GHG emissions, face disproportionate impacts of climate change exacerbating existing inequalities, increasing food security and the occurrence of forced migration among a growing list of other challenges.

Ajl's proposals appear to be presented in the form of a "dual power" strategy where popular movements leverage the potential of local state power (control of a district, city or municipality) while maintaining efforts to challenge the broader state and private capital in the domain of civil society. The key illustrative examples include a shift from commercial agriculture to agro-ecology, from energy markets with private producers to locally owned renewable energy, and the active demilitarisation of economies in the imperial core.

Notions of popular sovereignty are central to the concept of Decolonisation put forward in the synthesis of the book. Decolonisation is framed in Leninist terms as a bulwark against imperialism where colonised nations realise their right to self-determination achieving political and economic sovereignty. The "National Question" appears prominently in the overall argument and discussion focuses heavily on the limits imposed by imperial states. These constraints are described as rooted in the global expansion of capitalism, first through colonialism, and again through the proliferation of neoliberal policies forced on many newly independent nations through "structural adjustments" imposed as conditionalities to development loans. Ajl draws on these trends to chart the broad relationships between core and periphery and discusses the viability of Third world sovereignty under the prevailing conditions.

In South Africa, the thrust of the "National Question", is similar to the question of settler colonialism, that Ajl identifies with the USA, is decisively more focused on internal contradictions within the bounds of the nation itself. The viability of the types of important locally rooted alternatives Ajl points to are, in the South African context, deeply constrained by the impact of racial segregation policies of Apartheid and their afterlives. By way of simple example without decisive action to implement progressive urban and rural land reform many racialised communities, if focussed on highly localised approaches, may simply default into organising along the very racial and ethnic lines crafted by the colonial and Apartheid state. In addition to this, doing little to address inequality across marginalised communities, which are increasingly a source of tension, it constrains the majority of Black South Africans to conducting economic activities on non-productive land. As South Africa's social fabric itself is fracturing under the competitive tensions imposed by neoliberal reforms, betrayed freedom dreams and the urgencies of daily survival for the majority locked out of even low-wage employment. The challenge of building a cohesive national project in South Africa remains decidedly illusive.

Broader struggles waged by organised sections of the working class in South Africa appear focused on challenging central state authority, either through direct contest of the elections or through campaigns that demand targeted blanket reforms. These centre on demands for a dignified living wage, national health insurance, decent housing, provision of basic services among others. The labour movement has also played a leadership role in asserting that needs workers and communities historically impacted by fossil fuel use must be taken as central in all energy transition planning processes. The urgency of the need to move away from fossil fuel-based industries has indeed opened a narrow window of opportunity to transfer power and control into public hands which could help prioritise a shift to towards ensuring basic service provision over profit motives.

There have since been a rapidly growing number of platforms on the Just Transition across South African civil society with early influential contributions derived from by eco-socialist principles. Following interest in new opportunities in the “Green Economy”, private sector lobbies and a number of environmentalist organisations have since advocated for a variety of market-led reforms across a number of sectors of the economy using the language of Just Transition in an attempt to co-opt the discourse. Efforts advocating for the liberalisation of the energy sector promising trickle down benefits for workers and communities in new emerging industries are quickly becoming hegemonic. Very few concrete plans or proposals offer material security or viable alternatives for workers and communities already facing severe downstream risks of the declining coal sector they have been forced into economic dependency with. South Africa’s industrial base continues to shrink as does the states capacity to provide the growing list of social welfare functions demanded of it. In digesting both the warning and the assertion from Ajl on “What is to be Done?,” the book appears a timely reminder that the battle within the left on the GND/Just Transition is equally important as the battle against the forces of exploitation itself.

'DIALECTIC SOUL'

Reviewed by Phethani Madzivhandila, IFAA

Asher Gamedze is a cultural worker based in Cape Town, South Africa working mainly as a musician, student, writer, organiser, and an educator.

Recorded over one and a half days in Cape Town and featuring Thembinkosi Mavimbela on bass, Buddy Wells on tenor saxophone, Robin Fassie-Kock on trumpet and Nono Nkoane on vocals, Dialectic Soul is also a political inspired album partially inspired by the legacies of Steve Biko, the founder of the Black Consciousness Movement in South Africa; and Miriam Makeba, a beloved singer and an anti-apartheid leader who became one of the prominent voices across the continent. Gamedze already stands out ahead of his peers and contributing to the rich legacy of south African jazz that has never been afraid to speak out against social injustices and social ills.

Gamedze, originally from Johannesburg, is a Cape Town-based drummer who often appears as a sideman playing with different artists, both local and abroad. Internationally he made his mark for his seminal appearance on a song titled "Cape town" by Chicago-based clarinetist Angel Bat Dawid. Locally he has also worked with established jazz musos like Ndunduzo Makhathini amongst others and appeared as a drummer for multitalented singer-songwriter M'saki.

To some of us who were immersed on the struggle for free education we know Gamedze as an activist and an intellectual who is left leaning. He was part of the cohort in the university of cape town that was involved in the struggle for free higher education. He holds a master's degree in African Studies from the University of Cape Town, his master's thesis is titled "It's in the out sides: An investigation into the cosmological contexts of South African jazz," and traces the philosophical and spiritual practices that have informed the trajectory of South African jazz in the past century, placing South African jazz as an art-form rooted in the cosmology of African spirituality and the intellectual practices of the Black Radical Tradition.

The album kicks off with a suite titled "State of Emergence" that is divided into three movements: (i) "Thesis," (ii) "Antithesis," and (iii) "Synthesis" which invokes the Hegelian dialectic as the basis of understanding the torrid history of colonialism and slavery. The opening song sets the tone of the kind of rhythms and melancholy that Gamedze is aiming at, to evoke feelings and thoughts around jazz as a tool for liberation and contribution to the cultural resistance of jazz.

According to Gamedze, the "state of emergence suite" that makes up the first third of the album attempts to represent how colonial violence generates resistance. He believes that the "solo drums in free time symbolise autonomous African motion, moving through and resolving its own contradictions". With thesis, synthesis and antithesis he tries to paint a picture that all these contradictions will at some point come together and ooze out to cause a revolution, such that we must remain hopeful that at some day Azania will be free.

Dialectical soul is another Avant-garde contribution to the rich culture of South African jazz. Gamedze contribution comes at a turmoil time in the country facing the ramifications of the early 90s political settlement that has not radically changed the fortunes of the South African people.

In his introductory essay of the album, the radical historian Robin D.G. Kelley describes it as "the most joyful proclamation of world revolution—cooler than the Internationale."

With this album he has already solidified himself as one of the best artists to come out of the country and continuing in the rich legacy of free jazz: learn the rules—then break them. Like the avant-garde movement in visual arts, free jazz was an attempt to break from the traditions of jazz and create something entirely new. As jazz musicians became more comfortable with improvisation, a new sound emerged: experimental, unorthodox, and rebellious. Politically it also offers an intervention to the rejection of the neo-colonial country that is South Africa and in favour of the decolonial views of a socialist Azania. In the song hope in Azania, he offers a lament of the imagined future and building hope for the future. As Asher himself says: "Dialectic Soul is about motion and a refusal to remain static or stay still. It's the commitment to be continually moving. With this album he moves us forward to the imagined Azanian dispensation. It came as no surprise that it was awarded in the Mzantsi Best Traditional jazz album 2021.

Dialectic soul is a call to revolt, a lament for the beloved Azania and the betrayed revolution. As proud followers of this musical genre we can only hope that we will be mesmerized again in the future with even a better album from this musical genius. Siyabulela Mr Gamedze.

HOËR INHEEMSE ALTERNATIEF: THE RISE AND RISE OF HILTON SCHILDER

Reviewed by David B. Coplan is Professor Emeritus in Social Anthropology at the University of The Witwatersrand and is author of numerous publications.

I feel only gratitude toward the editors of New Agenda for asking me to write this appreciation of multi-instrumentalist Hilton Schilder. Of course this scion of the legendary Schilder family of songsmiths is anything but new on the agenda of Cape music practioners and devotees. Hilton himself is at once a creator, recreator, and visionary of the future of the battered but always brave musical traditions of the fairest Cape. I first sat spellbound and heartful in small venues listening to him in his post-Genuines days in 1991, when I first lived in Cape Town. That was before I devoured it's colonial history and testimony, and discovered that the unique Cape Sound was not merely being restored by Hilton and his *kamerade. Die Kaapse klank* (see Denis-Constant Martin's ***Sounding the Cape,*** African Minds, 2013) had been enslaved, hybridized, nearly buried, racialised, excluded, brought back and given new but always recognisable life over and over since at least the turn of the 18th Century.

Hilton, like every *musiek mal jong,* Schilder, had begun playing American-style popular music in the 1970s. But soon his voyage searching for the origins and on-going formation of the sea-borne local sounds swimming in the musical oceans of the global began, and has never looked for completion. One can find Hilton's musical ports of call on the web, so rather than repeat what others have said, I am asking readers to give place to my own voice in the impossible – but pleasure filled – attempt to conjure up the experience of Hilton's soundscape in mere words hoër inheemse alternatief. And so we find ourselves asked to consider his oeuvre not long before the covid-19 waves began to break on our shores and all but drown South Africa's live performing artists. Before that this oeuvre had reached the anchorages of ***AlterNative***, released in 2014 by Bandcamp on Rootspring, and ***Hilton Schilder in New York,*** a live concert video from 2019 recorded at Dizzy's in Manhattan, and lovingly reviewed by Gwen Ansell in her blog ('Hilton Schilder In New York: keys, bows and surprises' *sisgwen* 21 November, 2020). My focus is on ***AlterNative***, a work that should have received far greater attention before now.

First I would observe that this album is indeed a multipart 'work', a sequence of items that follow one another in a musically logical, composed order, and not just a collection of pieces hoping to engage the listener at some point, one way or another. This is facilitated by Schilder's choice of personnel, which made the album practically and even literally a family affair. Long-time colaborator and multi-instrumentalist Mark Fransman here cedes the honours on keyboard to Schilder and supports superbly on sax and flute. Uncle Eldred Schildred is the master on upright bass, Carlo Fabe and Brydon Bolton provide just the right Kaapse touch and rhythm on drum kit, and Hilton is joined on his signature jazzy vocals by his daughter Duende and pal Mishka Reddy. Hilton also contributes indispensably on guitar, Khoe-khoe traditional bows, melodica, percussion, guitar, bass, and whistle.

For quite some years, Schilder has taken a serious ethnomusicological and performative interest in Khoe instrumental and vocal heritage, revitalising it as a living, evolving stream of South African music flowing into 'our kind' of Cape jazz. These experimentations have had a serious and salutary influence on other outstanding Cape musicians, such as piano wunderkind Kyle Shepherd.

AlterNative begins with an eponymous track 'Alter Native', that can only be categorized as Kaapse, and it is movingly sweet and lowdown. Sounds from nature, as of distant thunder in the bergs, underly serial internventions on flute, Khoe (!Xam) language vocables, struck bows, and melodica to lay the goundwork for the album's sonic tapestry as a whole.

'Aiden Part 2' is a slow homage to the Cape's signature goema (ghoema) hand drum rhythm, full of the melancholy wistfulness of the old songs, featuring a lead refrain on melodica and sax, and bridged by a powerfully restrained and melodic solo by Fransman on sax. 'Cole Part 3' opens with a bouncing counterpoint on multiple struck bows, followed by a Cape melodic solo on acoustic piano in the mode made famous by Abdullah Ibrahim, backed up with brushes and high hat. 'Are You Prepared' shifts the mood with a stunning jazzy vocal by father and daughter Schilder backed by guitar, soft drums and a bass riff so low it resonates below the clef.

The emotion projected through the tonality floats in the being of the listener for a very long time after. 'Ostritch Love Dance' is a jazz horn and keyboard chorus skillfully blended with acoustic percussion instruments from Khoi-San traditions. It evokes San mimetic animal dances in the style innovated by Schilder in his 2006 album recorded by the sadly short-lived ensemble Rock Art, called appropriately ***Future Cape.*** 'Tesna' is a melodious piano piece echoed by whistling it an octave higher, over 'township jive' drum rhythms with their feel of an 8/8 time signature on the high hat. 'Marco's Polo' is an up-tempo contemporary jazz composition that appears to feature all of the instruments mastered by this ensemble. It is driven by amazing, rapid hand percussion and rhythmic pyrotechnics on the bow that might have astonished the ancients who invented it. 'Standing Rock' is also driven by this rhythm, from the bottom by hand percussion, a mouth lamellophone or 'jaw harp', and the melodica, all supporting a dark twilight zone vocal on the subject of the cataclysmic arrival of the Dutch in 1652. As the coda, 'Use Your Mind' provides a ballad sung by the three vocalists backed by an austere solo piano melody. Here the skies finally open with lyrics that urge the listener to employ the only instrument that can deliver true freedom: the mind.

The album is for me of course enhanced by my experience of Hilton Schilder the man: great-hearted, humorous, modest, cerebral, patient, compulsively musical. I will give but one example. When Hilton was fighting for his life against cancer of the kidney, friends and family organized a series of concerts by his close colleagues to defray his medical expenses. At the one I attended, Hilton himself appeared on stage and played piano for us in his own cause. And then survived and recovered to make music for us these past 15 years, from the Cape to far-off New York. Take a bow, beloved maestro and lovely man.

LAND AND LANDLESSNESS

By Qondiswa James

Qondiswa James is a cultural worker based in Cape Town.

I am 1 000km up and I am thinking about the planet. It is getting smaller as we ascend, becoming a dotted land mass filled with water. The plane is like an imaginary space ship that's taking us far away from here. I am wondering whether I will have the grace to see things from this vantage point. So far, everything is obscured, hidden. I see some things of course.

First, a long think cigarette-like tube protruding up into the sky, jutting out, chain smoking as it does – a factory there. It is hot inside where all the work happens, machines pumping out rhythmically their processes. The steel of the machines get hot to the touch and the people working there sweat and strip; in many other ways the people are also stripped and the sweat of their work held ransom for real lives. It is hot even inside here, in another place of work under the ground, or under the baking sun out on the farm lands. I see the factory there on the landscape of capitalist greed, pumping out its heat. They say there is a protective shield between the planet and the sun, and that it is riddled with holes, torn into parts and proving very difficult to patch up. But there is no real possibility of a patch for this, is there? Not for neoliberal democracy that does not deliver service to us but instead delivers a vote with nothing to back it up with except the empty words of the politicians and the faded ink of the constitution. Because there is a link somehow between the holes in the shield, the owners of the means of production who continue to pilfer the communities' wealth through the tearing they have done, and the consequences of the government's failure to uplift its people.

In the first place, perhaps we are our own people, or at least want to be. Secondly, there is no real possibility of a patch for systematic failure. There is a glitch in the matrix and it's spilled out on to the geographical landscape in an irreparable way. Capitalism is the earth's undoing; it is all our undoing.

There is another thing which reveals itself to me: the private offices of the Johannesburg Chamber of Commerce, there where decisions are made. Those men in their suits around an oval conference table are holding Okapi behind their backs, ready for slicing and tearing. They do this to us, and they do this to our homes. Our homes built on this mud mound, this earth, the green-blue hues of it, that calls all of us back to gravity. Back to our feet. Back to ourselves. Back down to earth. These suits with their heads in the clouds are all headed for Mars and snipping the climbing rope beneath them. Unlike them, we have no choice but to live with both feet firmly planted on the ground, likely the same ground that birthed us, we have no choice but to make do with the deliberate choices of the powers that hoard. The consequences are for us to deal with.

When the dust settles after these dark times we are in. I hope we find each other. And with each other, I hope we find ways of building by dwelling in the landscape first, steeping ourselves in the environment until it reveals to us its ways of being.

ISSN 1607-2820

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