The politics of large-scale mining in Africa: domestic policy, donors, and global economic processes

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Introduction

Thirty-one years ago, African leaders met in Lagos for the drafting of the Lagos Plan of Action for the Economic Development of Africa, 1980–2000. The main objective of the plan was to increase Africa's self-sufficiency and in this regard, the plan had a section pertaining specifically to redressing the ills of an unproductive mining and minerals industry and harnessing its potential for socio-economic development. However, if we look at the nature of this sector on the continent today, its characteristics resemble the diagnosis of the sector given in the plan back in 1980: lack of information on endowments of minerals; lack of value added in the sector; low development and use of those endowments that are not of interest to transnational corporations (TNCs); and most importantly, low contribution to socio-economic development. The primary consequence of the lack of visible benefits to African states, despite growth and development of the sector in terms of increased mining activity led by Foreign Direct Investment is that countries with mining industries are characterized by dysfunctional internal processes. Improvements in governance, monitored with indices such as those set out in the Extractive Industries Transparency Initiative, the Millennium Development Goals, and other such 'good governance' agendas, are being asserted. However, before we prescribe the introduction of initiatives or guidelines based upon highly subjective norms which we believe to fit this diagnosis, it is necessary to review how it is that we got to this situation that we are in today. How is it that, 31 years after the Lagos Plan of Action, we have not seen any major changes in the role the industry can play in socio-economic development, despite the vast increase in mining activity on the continent?

This article offers a historical overview of the political processes that have affected the minerals industry in Africa over the past 30 years. It addresses the interplay of new actors, such as donors and providers of foreign direct investment as a means of exploring the political implications of (attempted) FDI-led development for host states. Its main objective is to try to shed a different light on our understanding of the contention and tension that often occurs between African states and TNCs with regards to the mining industry, which over this period has remained unresolved. To this end, it is contended that the manner in which mining policy and legal reforms in many post-colonial African countries have been implemented, and the ensuing agreements that have been negotiated with mining companies, have undermined the ability of African states to assert regulatory authority over the private sector. The mere presence of foreign mining investors and operators in this contemporary context has been used in developmental and civil society discourse on the issue to argue against the potential of primary sector-led economic development in the case of the former, or to promote outright anti-mining activism in the case of the latter. Both contentions overshadow the potential for the optimal harnessing of the considerable potential of a growing mining industry to catalyse socio-economic development.

The first section begins by placing the debate regarding FDI-led development in Africa's mining industry in the context of our understanding of the public and private sectors, to show how this dichotomy is not the most useful in understanding the relations between states and TNCs. Secondly, the paper reviews the nature of the global minerals industry in general and highlights recent mineral law and policy reforms to show how reforms in sub-Saharan Africa (excluding South Africa) occurred at the conjuncture of two simultaneous occurring processes: 1) changes in the global minerals industry and 2) the liberalization of African economies through the development programmes of international organizations such as the World Bank and the International Monetary Fund (IMF).

The potential for private sector led development in Africa

Historically, post-colonial African countries have been characterized by severely restricted private sectors. With the recent worldwide movement towards privatization and liberalization, the region is mooted to have considerable economic potential with lucrative investment opportunity.[1] Since the late 1970s, FDI to Africa has been facilitated by highly conditional development aid programmes and host governments' adherence to Western concepts of sound economic policy that has long been advocated by international organizations and the development community. By their very nature, FDI initiatives in sub-Saharan Africa typically connect three sets of players:

- International organizations involved in investment promotion
- Political and administrative leaders in host countries
- Executives and corporate managers of transnational corporations.

[1]See for example: Alfaro et al 2003a,b; Brown 2000; Collier 2006; OECD 2008; UNCTAD 2000a,b

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FDI flows are not simply institutional processes of economic globalization, but also have significant political impact in the host country. While the implementation of stabilization and adjustment policies based on the recommendations of international organizations went a long way in getting rid of price distortions and liberalizing African economies, this process was accompanied by a fundamental redefining of relations between states and markets. In many situations it involved a redirection, redefining, and even withdrawal of the functions of the state as they had previously existed.

The minerals industry in Africa is a sector that has in recent decades been rapidly privatized, with resource-endowed countries benefiting from the influx of FDI and the increased presence of transnational mining corporations. This wave of privatization occurred not only as part of the new development programmes implemented in Africa, but also as part of the structural changes in the global minerals industry, which underwent increased rates of mergers and acquisitions. The stabilization and adjustment policies promoted by international organizations coincided with a global movement within the industry away from state control to increased minerals exploration and mining activity by the private sector. It is generally agreed that the process of economic reform of the African mining sector over the last 20 years has had as its objective the creation of a more favourable environment for FDI. However, critics have often questioned the extent to which the mining industry, an identified priority sector, has contributed to the development of host African countries, and to the local communities in which the mines are built in particular.

This has led to doubt about the efficacy of the policy in achieving development goals other than attracting FDI. The lack of visible development outcomes has highlighted the tensions between the significant financial success of the mining companies on the one hand and the questionable socio-economic impact of mining activities on the other, and has made the sector unsurprisingly controversial. In recent years, the extractive industries have taken centre stage in public fora in response to the latest round of mounting public pressure.

The debate on the merits and demerits of an FDI-led mining sector in African countries today is somewhat trite. It is not simply about the dichotomies of state versus private, local versus foreign. The division between the public and private sectors has been blurred by the increased presence and involvement of new actors in civil society such as the international non-governmental organisations (NGOs), donors, and multi-lateral organizations. While the economic development discourse can easily build and support an argument for private sector led development in Africa today, one must also consider the specifics of the historical conjuncture in which privatization is taking place in order to fully understand the potential and obstacles for private sector contributions to socio-economic development and poverty alleviation. Mining is an industry dominated by private sector intents. But it is erroneous to place the debate in a state versus private sector dichotomy. What needs to be better understood is the nature of the relations that exist between the two different sectors and how these have developed historically. More importantly, clarity needs to be sought on the respective roles of other actors such civil society and donors whose presence distorts the traditional public-private dichotomy.

20th century legal reforms in mining

Over the last century, the international development of mining law has been premised on two principal competing goals: sovereign control of resource rents on the one hand and rewarding free miners' initiatives on the other. Early reforms of mining law in the post World War II era leaned in the direction of the first goal, and tended to focus on bringing the then relatively prosperous mining industry under the control of governments in order to achieve policy objectives with respect to fiscal revenue generation, employment, technology transfer, and regional and local development. The results over time were disappointing, and the focus eventually moved to the second. However, to the extent to which one can discern a common thread between the goals of the mining law reforms in diverse countries around the world during most of the 20th century, could perhaps be the general trend perceived as bringing the mining industry under government control in order to achieve policy objectives with regard to fiscal revenue generation, employment, technology transfer, and regional and local development. Global movement away from state control of the mining industry towards the establishment of conditions for the promotion and regulation of private sector minerals exploration and mining activity began in the late 1970s (with the developed countries privatizing first), gained momentum in the 1980s, and culminated in the 1990s (with the liberalization of resource-rich post-independent African countries last).

In the wake of the collapse of the Soviet Union, the global mining industry was characterized by the continuation of a long-term trend of declining base metal commodity prices, weak profitability, and low share prices on the one hand (MMSD 2002), together with a surge of exploration interest in areas outside of the traditional investment targets of the US, Canada, and Australia, which peaked in 1997 (Naito *et al.* 2001). The next global trend in mining law reforms was triggered by those traditional mineral exporting countries who found that state monopolization of the minerals sector was not sustainable for a variety of reasons, including low profitability, shortage of capital, and deficient environmental practices. The mining law reforms of the 1980s and 1990s were based on a belief that mineral resource development is a form of industrial activity that is more efficiently undertaken by private enterprise than the state, which by its very nature, is subject to political pressure. A further dimension underpinning these reforms was the needs expressed on the part of companies that need to operate on a competitive commercial basis. These would range from the setting of economically realistic cut-off grades and production levels to the hiring of technically competent employees , including critical expatriate skills. Equally important to mining companies is the liberty to market their products directly and not through government-imposed intermediaries, and to be free of onerous statutory constraints on financial management.

Let us consider the picture of mining in resource endowed African countries during this time. At independence, many African countries found themselves the objects of Cold War competition between the ideologies of the West, associated with the perceived paternalism or oppression of the colonial period, and the East, which offered what appeared to be the more humanistic alternative of collective development, an approach more aligned with the mores of traditional African societies. But during this time of decolonization African

states also had access to a myriad of Bretton Woods institutions (the UN and its agencies, the World Bank, the IMF) and from which governments could obtain advice as and technical and financial assistance in policy development as well as strategies, and laws for their key industries, including the mining sector. In brief, a significant part of the reality for the mining industry in Africa from the late 1950s/60s through to the end of the 1980s was that, at a time when demand for its products was growing rapidly and the industry itself was relatively prosperous, the industry was an attractive target for the governments of newly independent former colonies, as well as for socialist governments of established independent countries. For the first time, developing countries experienced a growth in their share of worldwide corporation exploration investment, at least those with a productive minerals industry. In the context of the resource-rich developing world there was a flight of private capital from mineral development during the 1970s and 1980s, accompanied by a gradual tightening or eventual closure of international sources of capital (markets and institutions) to state-owned enterprises. In this context, the demand for liberization was accompanied by pressure to follow the global industry trend, and this was heightened by the parallel pressure for economic reform by international organizations such as the World Bank.

Privatization of mining in Africa—a political and an economic process

The privatization of mining is often considered purely a form of economic reform linked to a political wave favouring decreased state intervention and liberalization of the markets. In this regard, we tend to view privatization as an economic process. However, and especially in the case of the African sub-continent, privatization was much more complex than the selling off of state-owned assets. Rather, it involved changes in policy direction often closely linked with aid and loan conditions as stipulated by multilateral institutions such as the World Bank and the IMF. Indeed, the structural adjustment programmes (SAP)of the last decades of the 20th Century generally sought to implement 'free market' programmes and policy. These programmes include internal changes (notably privatization and deregulation) as well as external ones, especially the reduction of trade barriers. Since the late 1990s, some proponents of structural adjustment such as the World Bank have proclaimed poverty alleviation as a goal of these programmes. While the potential for SAPs to succeed in fostering growth to combat poverty has been highly debated, what is in this case important, to consider how a wave of implementation of relatively generic free, market policy occurred throughout Africa during this time, often with minimal involvement from the country in question. In other words, institutions such as the World Bank were significantly involved in the policy making process with regards to mining in Africa.

With regard to the mining sector, just as the World Bank became increasingly involved in the conceptualization and introduction of institutional reforms for the mining sector in the 1990s it simultaneously increased pressure for institutional reforms in the sector. In the implementation of these imperatives, the perspective applied was clearly that of a financial institution imposing privileging strategies favouring short-term fiscal redress and incentives to attract potential investors. In this regard, there is remarkable continuity between the 1992 study Strategy for African Mining and the 1998 document Assistance for Mineral Sector Development and Reform in Member Countries, the former setting out the rationale and the latter, notably its Appendix 2, 'Summary of the Essential Elements of a Modern Mining Code', reading as a synthesis and as a tool to implement the recommendations proposed in 1992. FDI was considered an unconditional necessity for spurring the developing of a properly functioning minerals industry in African countries.

The 1992 study was the first systematic representation of reforms considered necessary by the Bank in response to the fact that the sector was, according to this institution, under-performing. In fact, Africa attracted only 5% of the world mining industry's exploration and capital expenditures. In view of the continent's considerable mining potential and the significance of the sector in certain African national economies, this area of activity could be considered an 'important source of tax revenues and foreign exchange which are essential to Africa's economic recovery'.

The primary focus for African governments was seen to consist of a specific set of measures aimed at attracting FDI and reducing investment risk for private mining companies. The World Bank prescribed four main areas for attention:

- Appropriate regulatory framework
- Economic and fiscal policy
- Institutional reforms and infrastructure
- Environmental effects.

In order to gain a better understanding of the concerns of international companies which invest in a developing country, the World Bank undertook a survey of 80 mining companies, both juniors and majors. The survey revealed that the main investment criterion after mineral potential and existing infrastructure was a satisfactory legal and fiscal framework. Macroeconomic data was less important because the mining sector tends to be more isolated from other sectors in the national economy, with the notable exception of export protocols and exchange rate regimes. Investors also look for higher returns on equity in Africa than they might in developed countries because of the higher risk premiums associated with projects in developing countries. Investors also prefer to retain control of their investments. They are particularly concerned about corruption and political risk, and the dearth of geological information in most African countries. Governments are consequently urged to secure the confidence of foreign mining companies by reforming the institutional and legal framework of the sector, and by showing that they can act independently of political pressure, as a disinterested referee applying unbiased rules.[2]

What emerges from this is the extent to which consideration of what was perceived to be needed to attract foreign direct investment was premised on a sectoral approach, rather than one which sought to articulate the contribution of the mining sector with the macroeconomic objectives of inter-sectoral linkages, accompanied by an appreciation of the extent to which the sector could contribute to broader development goals. No provisions were made for building backward and forward (and lateral) linkages, such as the potential for value addition by the processing of minerals, an important development objective.

2Of course this is utopian, considering the pressure of winning elections and the , discretionary authority often vested in the minister in charge of mines

From a developmental perspective, the manner in which these documents have conceptualized the role of local states is of cardinal importance. The proposed measures have had a significant impact on the shaping of the institutional reforms that have been implemented. In a clear effort to create a suitable investment and operating environment for the private sector, the 1992 study specifies the need for 'a clearly articulated mining sector policy that emphasizes the role of the private sector as owner and operator and of the government as regulator and promoter. Nothing is proposed with regard to the key functions of the governments that are to implement these strategies, or to procedures for effectively mediating between government and private sector, or to enforcing the desired outcomes.

It is important to underline the extent to which the reform process in Africa during the 1980s involved the conscious withdrawal of state participation from the mining sector (Campbell 2009). Beyond the role played by individual corporate players, attention is drawn to the broader context which needs to be taken into account in addressing these issues, and particularly the importance of bilateral and multilateral players. The reforms of the 1990s were predicated in part on the recognition of the need to provide security of tenure in order to attract private investment in such a high-risk activity as mineral exploration. Investors in exploration would have to be certain of obtaining the right to exploit the commercial deposits that they had succeeded in discovering (or acquiring). At the turn of the millennium, international investors could choose from an increasing number and variety of geologically interesting countries with acceptable legal and fiscal investment frameworks.

The process of redefining the role and functions of the state was undertaken, however, above all with a view to creating a favourable environment for investment and the free play of market forces. Development objectives, notably through re-distributive measures in order to ensure greater social cohesion, or regulatory measures to monitor the use of non-renewable resources and to ensure the protection of the environment, were to be placed very much in a secondary position as compared to the emphasis on policies to attract FDI and promote exports.

Moreover, the manner in which measures of deregulation and forms of re-regulation and facilitation were introduced in the 1980s and the 1990s may not necessarily be compatible with, or present impediments to meeting the development challenges of the countries concerned. Addressing the issue of sustainable development, it involves taking into account the role of private sector companies as well as of bilateral and multilateral financial institutions, together with the role that the countries of origin of the companies plays in shaping the investment environment and the norms that regulate it.

Conclusion—understanding the role of TNCs in Africa today

Privatization and economic liberalization in Africa has not (or has, only rarely) led to the accumulation of indigenous wealth in the continent's mining industry. It has, however, led to an influx of FDI.

The effects of this privatization and liberalization process were in fact often premised on the development of a licensing system that principally benefitted a small group of rentiers, in so doing limiting the possibilities for the expansion of local small scale miners through increased access to land and consequently curbing their potential for capital accumulation. The process of privatization significantly changed the bargaining power of elite by including donors who not only pushed for the liberalization of African economies and the privatization of the minerals industry by advocating the benefits of attracting FDI. This is manifested in the way that donors have developed a constituency within the ruling coalitions of many African states over the last few decades. The public-private dichotomy has accordingly been compromised by the manner in which donors have influenced the role the state plays in fostering development and enhanced within these states a culture of dependency. This has happened despite the promotion and largely failed implementation of pro-poor policies advocated by donors and subscribed to by these governments.

The privatization process, as advocated by donors, has significantly undermined the ability of African states to direct their own minerals industries. This has in turn led to the implementation of mining development strategies that effectively undermine the potential for local capital accumulation. This will inevitably lead to increasing tension in the relations between TNCs and States in Africa. Solutions need to be sought that will enhance the ability of states to manage their own industries, allow TNCs to develop profitable (and thus taxable) operations and shepherd the development of prosperous mining activities with higher levels off local involvement.

Despite this, the regulatory frameworks championed by the World Bank are nevertheless central to the limited improvement in the role mining is playing for socio-economic development on the continent, as espoused in imperatives such as the Equator Principles and various other of its mining-oriented agency programmes. The privatization of the industry were part of the mono-sectoral approach adopted by the World Bank in its Structural adjustment Programmes which promoted the belief that these changes were necessary to attract FDI. A major failing of this process was that no provisions were made to articulate mining with other sectors and neither were any efforts made to bolster economic linkages between mining and the wider economy. The primary concern was a question of access to minerals for the export market. The process of privatization in the case of sub-Saharan Africa was not only economic, but also highly political in that it witnessed the intertwining of non-state actors such as the World Bank and their significant influence on policy formulation and implementation. The role of the state in regards to its influence on and management of mineral industries was possibly retarded by decades. Consequently, historical, political, economic and social issues are perceived as technical issues, with the erroneous notion that they can be 'fixed' through practices of 'good governance'.

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