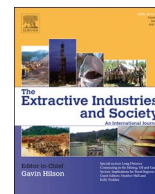




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Viewpoint

New resource nationalism? Continuity and change in Tanzania's extractive industries

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ABSTRACT

In May 2017, Tanzania's President John Magufuli declared 'economic warfare' on foreign mining companies, which he accused of draining the country's mineral wealth. Magufuli's attempt to exercise greater control over extractive industries culminated in the passing of three pieces of legislation in July 2017. Combined, the new acts aim to regain the loss of the country's sovereignty over its resources, first and foremost by opening the renegotiation of existing contracts and removing firms' access to international arbitration. Such actions have renewed the debate on resource nationalism, with some political commentators referring to 'a new resource nationalism', supposedly marking a break with the previous administration. By analysing changes in extractive governance in recent years, this article argues that, whereas some new features related to the current President's personality and populist style may explain some of the new nationalism, the continuities from previous administration are more pronounced. This can be seen in the repeated calls for a tougher fiscal take, involvement of state-owned enterprises and presidents' direct involvement in deal-making, all of which were already well underway under the previous administration. More likely, the recent legislation reflects a broader shift of thinking in the ruling party, spurred by increasingly competitive elections since 2010.

1. Introduction

Resource nationalism has regained momentum in recent years as (resource-rich) countries make efforts to consolidate their ownership, whether fully or partial, of mineral and oil and gas resources to maximize the socio-economic benefits they hope to acquire from these strategic resources. During the global commodity boom of the 2000s, various countries in Africa and across the globe introduced a number of policy interventions, protectionist measures and new pieces of legislation in efforts to increase taxes and royalties, local content, domestic processing and value addition. There have been calls to renegotiate mining and oil and gas contracts signed in the 1990s, which are deemed unfavorable to host governments, and to increase mandatory state and indigenous shareholding (Bremmer and Johnston, 2009; Vivoda, 2009, Andreasson, 2015; Childs, 2015, 2016; Wilson, 2015; Ovadia, 2016). There have even been demands for outright nationalization in South Africa and more radical reforms by the left-wing governments of Hugo Chavez, Rafael Correa and Evo Morales in Venezuela, Ecuador and Bolivia respectively (Rosales, 2013; Arsel et al., 2016; Haslam and

Heidrich, 2016).

In Tanzania, extractive industries have been in turbulence for the past twelve months. On 3 March 2017, the then Ministry of Energy and Minerals announced a ban on exports of mineral sand, mainly of the gold and copper concentrates that are found alongside gold (MEM, 2016).¹ The ban was in response to order issued by President Magufuli a day earlier while on tour in Cost region. The ban targeted London-listed Acacia, Tanzania's largest gold producer. Two of Acacia's mines (Bulyanhulu and Buzwagi) were severely hit by the ban (Acacia Plc, 2017). President John Magufuli stated that the government planned to build copper smelters in the country and that the ban is intended to ensure value is added within Tanzania as part of efforts to integrate the mining sector with the rest of the economy.

Between March and April, President Magufuli set up two probe committees to investigate Acacia. The first committee was tasked to inspect Acacia's 270 containers seized at Dar es Salaam port, while the second investigated the legal and fiscal aspects of the existing deals between Acacia and the government. The two committees' findings were presented to the President in May and June, allegedly revealing

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¹ As part of the ongoing reforms, the Ministry of Energy and Minerals was split into two in a mini-cabinet reshuffle in October 2017, creating a Ministry of Mining separate from the Ministry of Energy.

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massive cheating and under-reporting by Acacia and concluding that Tanzania had been cheated for many years (The Citizen, 2017a,b). Acacia still disputes the findings,² which have not been made public, but which nonetheless caused the Tanzania Revenue Authority to present it with a USD190 billion tax bill, approximately four times Tanzania's GDP, for evaded corporate income tax.

The Acacia saga paved the way for three new pieces of legislation, namely the Natural Wealth and Resources (Permanent Sovereignty) Act 2017, the Natural Wealth and Resources Contracts (Review and Renegotiation of Unconscionable Terms) Act 2017 and the Written Laws (Miscellaneous Amendments) Act 2017 (URT, 2017), all passed by Parliament in July 2017 under a certificate of urgency.³ The new legislation seeks to reaffirm and restore Tanzania's sovereignty over its natural resources by overhauling the governance of minerals and oil and gas resources. Under the new laws, it is mandatory for the state to own at least sixteen percent of future mining operations, and state-owned enterprises are entitled to acquire up to fifty percent of the shares in mining companies. The laws also provide powers to the parliament to review and renegotiate existing agreements and a ban on export of unprocessed minerals (Woodroffe et al., 2017).

While the previous extractive legal regime vested the ownership and control of extractive and other natural resources in the United Republic of Tanzania, the Sovereignty Act (one of the three amendments) places the power over decision-making regarding natural resources under the President (Woodroffe et al., 2017). This coincides with the recent emergence of the President Magufuli as a direct deal-maker in extractive investments, as seen by his personal interventions into deals such as the gas sales agreement between Tanzania's national oil company, the Tanzanian Petroleum Development Corporation (TPDC) and Dangote Group, the Nigerian cement producer. Magufuli has also ordered the issuing of a coal mining licence to Dangote, he was directly involved in the ongoing talks with Acacia's parent company Barrick over a tax dispute, in the East Africa Crude Oil Pipeline (EACOP) project as well as in the Liquefied Natural Gas (LNG) project. The president has also recently directed Parliament to start the process of reviewing all mining and oil and gas contracts soon, a process that began at the end of 2017 (Daily News, 2017).

Some commentators have recently identified the emergence of a new resource nationalism marked by a different approach and a shift in policy under President Magufuli (Ahearne, 2017; Paget, 2017a). Whereas the era of African Socialism, which was declared under President Julius Nyerere in 1967, marked a similar emphasis on national ownership over resources, including dramatically increased state involvement in the economy as well as nationalization of major private enterprises, including mining companies, the subsequent period of liberalisation did indeed lead to a gradual withdrawal of the state from the economy, which now appears to be rolled back.

In this article, we interrogate the notion that contemporary nationalism under Magufuli, marked by the recent worsening of relations between the state and investors, represents a significant break from recent previous administrations after the breakdown of African Socialism. Based on ongoing research, we argue that nationalistic interventions, state-centric policies and critical approaches toward multinational corporations involved in mining and oil and gas extraction were underway well before Magufuli came to power.⁴ Indeed, we

² For more see Acacia Plc (2017). Update on the 2nd Presidential Committee Findings. Available at <http://www.acaciaminging.com/media/press-releases/2017/2017-06-12a.aspx>.

³ A bill under certificate of urgency is when the relevant bill is of such an unusually urgent nature and the process for it to be passed as a law become much faster as opposed to ordinary bills.

⁴ The research is part of the Hierarchies of Rights: Land and Investments in Africa' research project, which explores how struggles related to large-scale investments into oil, gas, mining and agriculture affect rights to land in Mozambique and Tanzania. Data presented in this article are drawn from extensive research into mining and petroleum investments in mainland Tanzania. This includes interviews and observations gathered

suggest that the agenda of maximizing the benefits Tanzania draws from extractive resources represented a shift in thinking in the ruling Chama Cha Mapinduzi (CCM) party spurred by the historically competitive 2010 elections. However, it is Magufuli's style of implementing these policies and the nature of contemporary Tanzanian politics that give these changes their peculiar appearance.

The article proceeds as follows. After this introduction, the second section explains the development of resource nationalism under former President Jakaya Kikwete, influenced by the impression that world mineral and oil prices were skyrocketing and by discoveries of major gas deposits both offshore and deep-sea from 2010 onwards. This historical analysis is important in identifying the roots of the contemporary wave of nationalism. The third section seeks to track continuity and change under Magufuli and elaborate three features of contemporary nationalism. We end with a brief conclusion.

2. Extractive governance under Kikwete: the rise of resource nationalism

Kikwete assumed office in 2005 at a time of growing criticism of the outgoing President Benjamin Mkapa administration for its supposed failure to channel mineral wealth into socio-economic development (Jacob et al., 2016). The main opposition party, CHADEMA (Chama cha Demokrasia na Maendeleo), capitalized on the widespread sentiment that Tanzania was not getting enough out of its natural resources, and mining policy became the opposition's main mobilization platform. During the 2005 and 2010 general elections, the main opposition mobilized and campaigned on the limited benefits Tanzanians were perceived to have enjoyed from the extractive industries since liberalisation, linking this to shoddy and possibly corrupt contracts. The opposition argued that the alliance between the ruling Chama cha Mapinduzi (CCM) government and transnational corporations was failing the country.

Stung by the opposition's criticisms, the Tanzanian government embarked on various nationalist policy interventions aimed at maximizing the benefits that could be obtained from the extractive industries. Changes began at the end of Kikwete's first term with a new mineral policy (2009) and a new Mining Act (2010). The latter was Kikwete's first step in reversing the more liberal 1998 Mining Act, which was widely viewed as offering favourable and generous terms to foreign investors (Butler, 2004; Curtis and Lissu, 2008; Jingu, 2012; Jacob et al., 2016). The then new law increased royalty levels for metallic minerals (copper, gold, silver and platinum group), pushed for local content requirements and promoted indigenous investors by restricting gemstone licenses to Tanzanians. However, the local content provisions in the Mining Act were found to be weak, as did the capacity of domestic firms and local entrepreneurs (Hansen et al., 2016; Lange and Kinyondo, 2016).

More important for our analysis, however, the 2010 Mining Act also marked a shift in thinking within the CCM that has become ever more prominent since then, permitting the state to assume an ever more active role in the economy. Thus, the Mining Act provided for active state participation in mining investments and the promotion of Tanzanian companies in the sector. It also granted SOEs the right to take a stake in strategic mining operations depending on the type of minerals and investments involved. This marked a departure from the more liberal 1998 Mining Act, which had done away with the state's right to acquire stakes in operations (Jacob et al., 2016; Maganga and Jacob, 2017).

The oil and gas sector underwent similar changes, though they were introduced at a different pace, partly because the state had never

(footnote continued)

between 2015 and 2017 as well as evidence from secondary sources. The project is funded by the Danish Ministry of Foreign Affairs.

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