



# Pre and Post Economic Reforms in the Governance of Mineral Resources: A Review of Mining Policies and Laws Since Independence in Tanzania

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**Abstract:** For any country to substantially benefit from its natural resources, minerals inclusive, efforts should be directed on how decisions in connection to such resources are made or not; also, how such decisions are implemented or not. Tanzania is fourth in Africa in terms of natural resource endowment. Incognizant of that, various laws and policies were enacted since independence in 1961 to govern the sector. This article analyses the mining industry in Tanzania during the sixty years of independence. It specifically discusses the mining policies and legislations in Tanzania before and in the context of Tanzania's reforms economy. The article further analyses the pre- and post-economic reforms environment and its impacts on the governance of mineral resources. A documentary research method was employed to collect information related to mining activities, policies and legislations from 1961. The search strategy included a review of published and grey literature from research reports and other secondary evidence. The search query involved keywords such as 'mineral sector reforms', 'mining sector', 'reforms in the governance of mineral resources in Tanzania', 'Tanzania's mining policies', 'mining legislation in Tanzania', 'mining laws in Tanzania' and 'pre and post-economic reforms'. The review has identified various issues established by the legislations, regulations and policies employed in the mining industry since 1961. The legislation and policies enacted have impacted the governance of the sector. It has been observed that the government of Tanzania has been putting a lot of efforts to enable the public to benefit from the resource by establishing policies and laws. Despite establishing these governance structures and aspects the country needs extra initiatives for the public to further and significantly benefit from the sector. The sad thing is that Tanzania though endowed with natural resources remains on the list of poor countries sixty years after independence.

**Keywords:** Mineral acts, policies, pre & post-economic reforms, mineral resources governance, Tanzania

## 1.0 Background Information

The onset of mining operations in Tanzania has its origin before the attainment of political independence in 1961, though a significant and massive investment has been observed around the 1990s (Muganyizi, 2012). It is in the records (World Bank, 2018; TEITI, 2017) that Tanzania stands as the fourth country in Africa gifted with colossal natural resources including gas, minerals, and precious metals. Tanzania is after South Africa, the Democratic Republic of Congo, and Nigeria in the continent on natural resource abundance.

The mining sector is reported by URT, (2010) to have a substantial contribution to the promotion of development and

reduction of poverty in Tanzania. The Mineral Audit Agency (2017), reports that the mineral sector offers about 700,000 jobs, the majority being to nationals. There is a notable contribution that the mineral industry has to Tanzania's economy (TEITI, 2017). Despite the current contribution made by the sector to the economy, the situation has never been all the way that rosy in the history of this industry. Cooksey and Kelsall, (2011) also Nyankweli, (2012) observed the mining sector in Tanzania to have exhibited varied features and contributions to the economy: before attainment of independence, after attainment of independence, and in economic liberalization period. The sector was reported to exhibit stability reflected on the volume of minerals extracted and its input to the GDP during the pre-independence. It is immediately after independence, and particularly in 1967 after the Arusha Declaration that a



reversal was registered with stagnation being recorded. It should be noted that with the advent of the Arusha Declaration, the mandate of controlling the mining industry was shouldered to the State Mining Corporation (STAMICO). The 1970s witnessed innumerable challenges confronting the sector which resulted in the shutdown of several mines. The 1980s marked significant changes in the mining policies and legislations, which among others endorsed public-private partnership in terms of investment in the minerals exploitation, hence witnessing mineral boom and exports. Cooksey and Kelsall, (2011) associate the 1990s with a period that attracted foreign investment in the mineral sector due to changes made in policies.

In addressing challenges emerging in the mining industry the government in Tanzania had to undertake numerous reforms (Maliganya and Bengesi, 2018; Muhanga, 2016; 2019). It is in this context that the government in Tanzania has been motivated to initiate innumerable efforts in terms of governing the sector to secure its economic and social benefits. Several efforts made by the government in Tanzania included changes to its mining legislations. To create efficiency in the sector, various acts and policies have been established. These were mostly meant to govern various aspects related to granting rights in developing, exploring, exploiting and processing minerals in the country. The main aim being realization of benefits for all Tanzanians. Numerous studies have been previously conducted to analyse the legal and policy environment in the mining sector in Tanzania including Muhanga, 2019; Muhanga and Urassa, 2018); it should however be noted that these other studies mainly confined themselves to the post reforms era. This article analyses the regulations, policies and legislations in the mining sector in Tanzania since 1961 and issues emanating from the same. This is a synopsis of the sector covering the pre- to post-economic reforms era in Tanzania with a focus on governance aspects emanating from the policies, regulations and legislations.

## 2.0 Methods

A documentary research method (documentary review) was employed in this study to collect information on mining policies and laws enacted since 1961 to identify mineral resources governance structures and issues emanating from those policies and laws in Tanzania.

Desk review of published and grey literature from research reports and other secondary evidence from national research institutions; civil society, and national and regional state actors were also conducted. A documentary review of various policies and legislation on the mining sector, Ministry of Minerals, and energy was carried out. These documents included: The Mineral Policy of 1997, Financial Laws (Miscellaneous Amendments) Act of 1997), Foreign Exchange Act of 1992, the Mining Act of 1998, and Mining Regulations of 1999. Online academic publications and other

sources were also gathered, synthesized, and analysed together with policy and programme documents. The search query involved keywords such as: “mineral sector reforms, mining sector, reforms in the governance of mineral resources in Tanzania, mining policies in Tanzania, mining legislation in Tanzania, mining laws in Tanzania and pre and post Economic reforms”.

## 3.0 Findings and Discussion

### 3.1 Mineral Acts, Regulations and Policies

In this review, information collected identified innumerable legislations, regulations and policies in the mining sector in Tanzania during the pre and post reforms. Table 1, presents acts, regulations, and policies, on mining industry established in Tanzania since independence. It can be noted that a significant effort has been registered in the post reforms era in terms of enactment of such legislations.

**Table 1: Mineral Acts, Regulations and Policies**

| No. | Mineral Policies, Acts and Regulations   | Year enacted |
|-----|--|--------------|
| 1.  | The Written Laws (Miscellaneous Amendments) No.2 Act, 2019                             | 2019         |
| 2.  | The Mining (Mineral Beneficiation) (Amendments) Regulations, 2019                      | 2019         |
| 3.  | The Mining (Minerals and Mineral Concentrates Trading) (Amendments) Regulations, 2019  | 2019         |
| 4.  | The Mining (Mineral Value Addition) Guidelines, 2019                                   | 2019         |
| 5.  | The Mining (Minerals and Mineral Concentrates Trading) (Amendments), Regulations, 2019 | 2019         |
| 6.  | The Mining (Local Content) (Amendments) Regulations, 2019                              | 2019         |
| 7.  | TEITA Regulations of 2019  | 2019         |
| 8.  | The Mining (Mirerani Controlled Area) Regulations, 2019                                | 2019         |
| 9.  | The Mining Act of 2010 (CAP 123 Revised Edition of 2018)                               | 2018         |
| 10. | The Mining (Local Content) Regulations, 2018   | 2018         |
| 11. | Natural Wealth and Resources Act, 2017   | 2017         |
| 12. | Unconscionable Terms Act, 2017   | 2017         |
| 13. | Miscellaneous Amendments No.7 of 2017  | 2017         |
| 14. | Procedure for Applying for Mineral Rights  | 2017         |
| 15. | Inspection Manual for Small-Scale Mines  | 2017         |
| 16. | Export and Import of Minerals Procedures   | 2017         |
| 17. | Smelting Refinery Licence  | 2017         |
| 18. | Tanzania Mining Industry Investor's Guide  | 2015         |
| 19. | TEITA Act and Mining Act Amendment   | 2015         |
| 20. | Tanzania Mineral occurrence  | 2015         |
| 21. | The Mining Act, 2010   | 2010         |
| 22. | The Mining Regulations, 2010   | 2010         |
| 23. | The Mining Policy, 2009  | 2009         |
| 24. | The Mining Act, 1998   | 1998         |
| 25. | The Mining Act, 1979   | 1979         |
| 26. | The Explosives Regulations of 1964   | 1964         |
| 27. | The Explosives Act of 1963   | 1963         |

Source: Ministry of Minerals, 2019

The extractive sector has the potential to offer opportunities to drive both growth and human development on one hand while on the other, however, extraction has been reported to



result in slow growth, conflict, and poverty too (Sachs and Warner, 1995 and 2001; Ross, 2001b, 2004 and 2007). For any country to significantly reap the benefit from its natural resources, minerals inclusive, there should be a legal framework out of which the aspects of how decisions in connection to such resources are made or not will be anchored; also, how such decisions are implemented or not. In presence of these acts and policies, there is an indication that Tanzania from its independence has been striving to create a good governance zone. Weak governance has been reported to stand a good chance of limiting the reaping of benefits in the extractive industry, good examples are reported in the literature (Smillie, *et al.*, 2000; Snyder, and Bhavnani, 2005; Stewart, 2002). It can be observed that in Tanzania there have been notable minimal conflicts related to the extractive industry compared to some other mineral resource-rich countries in Africa within the sixty (60) years of independence. This results from a multitude of factors, governance aspects inclusive.

### 3.2 Mining Policies In Tanzania Since Independence

It is with the advent of economic changes and challenges, that the government in Tanzania realized the necessity of the mining policy with an expectation that mineral extraction to the contribution to Tanzania's socio-economic development will be enhanced (Schoneveld, *et al.*, 2018). It is reported that in October 1997, the first Mineral Policy was established in Tanzania which aimed at guiding the mining activities in the country. The Mineral Policy of 1997, *inter alia*, intended to "promote investment in the extractive and related operations, improving small-scale mining activities, alleviate poverty, strengthen the socio-economic set-up, and improve revenue collection". The policy further intends to create an avenue for Tanzania to emerge as the leading germ stone center in Africa, but also to take into consideration protection of the environment as mining activities continue. The mineral policy also focused on uplifting foreign currency earnings and the share of the mining sector to Tanzania's economy in general and to Gross Domestic Product in particular.

In the first instance of implementing the Mining Policy of 1997, the government of Tanzania had to amend numerous financial bills, including "Financial Laws (Miscellaneous Amendments) Act of 1997". These changes and amendments were from "the look of some analysts" seen as intended to entice foreign investment in the extractive industry. The government of Tanzania in 1998, the approved a mining law and amended the "Foreign Exchange Act of 1992" to accommodate the necessities of the extractive industry in connection with the "Mining Policy of 1997" (Mutagwaba, *et al.*, 2018). It has remained however the blame to the government from analysts that the investors were attracted at the expense of the nation.

It is also worth noting that, the Mineral policy of 1997 encouraged small-scale mining by insisting on the side of the government on the provision of technical and material support. In this respect, the Mineral Policy of 1997 spearheaded some amendments in numerous tax laws to offer relief and incentives to investors. These amendments included those made to the taxation laws, i.e income tax (2004), excise duty, customs duty, stamp duty, fuel levies, and local government levies. Other amendments were on Value Added Tax Cap 148, which entitled mining companies to VAT relief. However, these changes and amendments have never been free from blame and critics from both local population and the international community too (see for example; Roe, 2016).

It is these changes and incentives which introduced various amendments, that afforded Tanzania between 1994 and 2007 to witness an influx of foreign investments in the mining sector. It will however, remain in the books of records, that Tanzania once enjoyed being a Low Middle-Income Country (LMICs), certainly the mining sector had its contribution. Further developments in the mining sector are tied to the efforts of the fifth phase government in Tanzania under the leadership of the late John Pombe Joseph Magufuli (2015-2021). During the respective phase, significant amendments were made to the policies, legislations and regulations to the mining sector in Tanzania. Table 2 summarizes some large-scale mines which were impacted by these legislations and policies in Tanzania.

It can be observed from Table 2 that numerous large-scale mines (LSM) operations have been existing in Tanzania, even though, what is presented in the table mostly covers the post reforms period. However, it is in the literature that mining activities existed in Tanzania prior to reforms (Jourdan, 1990).



**Table 2: Large-scale mines operations in Tanzania**

| Name                                  | Location   | Ownership status   | Production  | Contract beginning |
|---------------------------------------|--|--|---|--------------------|
| Bulyanhulu Gold Mine (BGM)            | Kahama, Shinyanga Bulyanhulu, North Mara and Buzwagi | Joint venture GoT (16%) Twiga Minerals Corporation, previously Acacia Mining Plc (African Barrick Gold Plc). | Gold reserve, 13.2 million ounces (equivalent to 411 tons)      | 1994               |
| Golden Pride Mine                     | Nzega, Tabora  | Resolute Tanzania Limited (Australian Mining Company)  | Gold reserve, 2.47 million ounces (equivalent to 76.82 tonnes). | 1997-2013          |
| Geita Gold Mine (GGM)                 | Geita Region   | AngloGold Ashanti Limited (South African Company).   | Gold reserves, 16.95 million ounces (equivalent to 527.02 tons) | 1999               |
| North Mara Gold Mine Limited (NMGM) . | Tarime, Mara Region                                  | Twiga Minerals Corporation, / government of Tanzania and Barrick Gold Company                                | Gold reserve, 3.8 million ounces (equivalent to 116.23 tonnes)  | 1999               |
| Tulawaka Gold Mine in                 | Biharamulo, Kagera Region                            | African Barrick Gold/ State Mining Company (STAMICO) from January 2014.                                      | Gold reserve, 565,000 ounces (equivalent to 17.57 tons)         | 2005-2013          |
| Buzwagi Gold mine (BZGM), owned by    | Kahama, Shinyanga Regions                            | Twiga Minerals Corporation/ government of Tanzania and Barrick Gold Company                                  | Gold reserve, 2.4 million ounces                                | 2009-2020          |

Source: URT, (2008).

### 3.3 Mining Policies, Legislations, Governance Issues & Structures: An Overview

The Mineral Policy of 1997 is associated with successes in the mining sector and generally in Tanzania's economy. The success story is reflected in the growth of foreign direct investment (FDI) which has been recorded at US\$2.5 billion in 2007 from US\$1.3 billion in 1997 to 2007. It is also in the records that there were six major gold extracting companies producing over 50 tons of gold. It is obvious that this signifies the sector's development which in turn resulted in the creation of profitable and secure employment opportunities in large-scale mines. Another achievement was observed in line with, an increase in revenue to the government, and the sector's contribution to the GDP also the provision of livelihoods' alternative particularly for the communities living in the rural areas (Butler, 2004; URT, 2009). Despite the progresses registered, the mining industry has never been free from difficulties, particularly on the

lack of combination of the mining sector to others in the economy, its relatively low contribution to the GDP, the slow small-scale mining 's growth, the absence of value-addition to the minerals, and the environmental deterioration (Roe, 2016).

On 12<sup>th</sup> November 2007, a presidential commission named the "Bomani Commission" was established with aim of examining and reviewing the mining sector in Tanzania. This was a step towards attainment of benefits from the sector to Tanzania's economy. Before the review, the legal framework that existed, comprised "the Mining Policy of 1997, the Mining Act of, 1998, and the Mining Regulations of 1999". This commission had to review and address challenges in the sector to improve the situation. The Bomani Report much-admired the strong involvement by the private enterprise in the sector towards the attainment of sustainable development (Finnish Consulting Group, 2009). Innumerable studies have been supported by the government in Tanzania, these studies came out with reports on central issues in the mining industry and suggestions on best to improve the sector. The most popular reports including- "Kipokola Report, 2004 and the Bomani Report, 2008" (Finnish Consulting Group, 2009). These committees took part in revising the draft of the mineral policy in 2008 and offered to the government recommendations, that enabled the formulation of the Mineral Policy of 2009.

The Mining Policy of 2009 then replaced the Mining Policy of 1997. It is reported by Roe, (2016) and URT, (2009); the Mineral Policy of 2009, among others, seeks to:-

- "Promote a favorable economic environment to entice and endure both local and foreign investments in the mining industry.
- Improve economic inclusion with other sectors of the economy to contribute further to the county's economy.
- Reinforce the regulatory and legal framework for the mining industry and strengthen the capacity to monitor and evaluate the mineral sector.
- Improve institutional capacity to efficiently manage the mining industry and provide good governance.
- Create a favorable environment so that Tanzanians can participate fully in mining projects and ownership of the mines (medium and large-scale).
- Assist and improve the growth of small-scale mining to upsurge its support to the country's economic development.
- Encourage, assist and foster the involvement of Tanzanians in gemstone extraction.
- Develop clear and appropriate land compensation, transfer, and relocation plans in extractive operations.
- Promote the participation and engagement of local societies in various CSR projects.





- Promote and encourage women's involvement in extraction operations and enhance implementation of rules and guidelines addressing child labour in extractive operations.”

Additionally, the Mineral Policy of 2009 attempts to address various challenges confronting the mineral sector in Tanzania, including enticing the private sector investment in the industry for both mining and searching for beneficial markets for minerals. The main focus of the policy is expanding the sector's contribution to Tanzania's economy and mitigate poverty by integrating the extractive industry with innumerable sectors of the economy (Lobe, *et al.*, 2019).

Incognisant of the need to uplift the standard of living of the citizens, the government of Tanzania formulated the Mineral Policy of 2009 in conjunction with Tanzania Development Vision 2025. The vision is intending to improve the quality of life of people by building a strong economy. Additionally, the Mineral Policy stressed the establishment of a favorable environment for private enterprises investment in the extractive industry. This has been labelled by IMF, (2011) as “measures to provide a sound, transparent and strong macro-economic environment to promote investment in the mining industry”. Such measures include, but not limited to “friendly taxation systems, improvement of infrastructure and reliable financial facilities”. It is against this background that, the mineral industry has been observed to promote the development of some other sectors and stimulate economic profits for the citizens. This has afforded, the government in Tanzania to pursue reasonable strategies toward strengthening economic inclusion involving the mining sector and other economic sectors. there are numerous needs for small, medium, and large-scale mines to ease their operations. It is in this policy that recognition of Tanzanians to participate in the mining sector has been noted to be limited hence the policy insists on empowering citizens to grab this opportunity in the sector (UNESCO, 2016).

The policy also stresses issues related to market linkage, environmental protection, acquisition of geological information, also provision of technical and financial support. All these in terms of its governance are under the ministry responsible for mining (UNESCO, 2016). The policy also prohibits the involvement of children in mining operations to stop the deprivation of children's right to education and other social services, this way children can be free from numerous social problems, and diseases inclusive. (UNESCO, 2016). Regarding governance in the mining sector, it has been observed that the previous regulatory framework was not sufficient enough to guarantee transparency, foreseeability, and security of tenure. In this context that the need for reinforcing monitoring and law enforcement was suggested. Subsequently, a licensing system has been applied in Tanzania towards implementation of the regulations specified in the Mining Act of 2010.

The Mineral Policy of 2009 with regard to research and development had directed its focus on the necessity for not only the development of research but also appropriate application of research findings in the mining sector. The Mineral policy insists on the need for the trained personnel to develop the mining sector. Despite efforts of the government in initiating and strengthening training in various areas related to the mining industry, analysts have observed such efforts as inadequate. Additionally, research findings with respect to geological surveys available in various training institutions and universities have not been adequately exploited. In addressing these issues, the government insisted on public-private partnerships in strengthening, assisting and encouraging training institutions to offer training on technical skills with respect to mineral sector operations (URT, 2010).

On environmental and social aspects, the policy recognizes the likelihood of operations in the large scale-mining having resulted in relocation of communities hence disruption of socio-economic activities. To control this, the policy plainly states that “where resettlement is unavoidable the government is liable for estimating the value of the land and other properties affected by the process of relocation, whereas the investor shall be liable for the disbursement of compensation and relocation. There is also a need to make sure and recognize that compensation proceedings are transparent, the land is properly assessed so that enough compensation is given and is paid on time. Regarding community development, extractive companies are responsible for executing reasonable CSR strategies and the policy further stresses that the government should promote and encourage the participation of local communities in prioritizing their community development programmes and well-being for the entire period of mining operations” (UNESCO, 2016).

Furthermore, the policy points out to the role of the government towards promotion of linkages involving the mining sector and some other sectors of the economy, where by the policy recognizes it currently being weak. The policy also emphasizes on the need to address aspects of local content. Incognizant of the fact that over 56% of the whole procurement in large-scale mines comprises of imported items, the government in Tanzania has taken numerous measures towards promoting local content in the sector (UNESCO, 2016). Such measures included but not limited to, formulating regulations with respect to local content in the sector, promotion and execution of harmonized programmes to expand economic integration of the mining industry to other sectors in the economy. The logic behind local content has always aimed at having Tanzanians taking a lead in delivering goods and services in the mines. Additionally, the policy recommends the need for monitoring but also evaluating the main companies investing in mineral



extractions with regard to local content, together with this, a national committee charged with the responsibility of promoting local content in the mining industry was established (UNESCA, 2016).

The policy highlights further participation of women in the mining sector as a critical aspect of promotion of economic development in the country. The most important are the efforts initiated with regard to advocacy campaigns but also on encouraging women to establish their associations in the sector. The policy also points out to socio-cultural and economic challenges women that have been confronting small-scale miners hindering effective participation in mining sector, hence much less benefit to women compared to men. To address these challenges, the government in Tanzania has continued to spear head initiatives that aimed at amplifying women voice and participation (UNESCA, 2016).

On linkages with respect to markets and diversification of the economy, the Mineral Policy of 2009 emphasizes on the need for the government in Tanzania to direct significant investments in the manufacturing sector also encouraging mineral beneficiation to the citizens. The policy also points out on the need for the government to closely work with the private sector and other foreign companies in promoting investment in the refinery and smelting sector. The policy further aims at enhancing development in the gemstone industry through provision of support to citizens for them to participate substantially in gemstone mining. Above all, the policy largely ambitious to see Tanzania prospering and turning into a leading gemstone industry centre for the continent (UNESCA, 2016).

### **3.4 Mining Llegislations in Tanzania**

Tanzania is considered comparatively as a new mining country. It is in the history that Tanganyika under the German colonial administration had less involved itself in mining activities compared to the British colonial administration. The mining activities followed after The British had taken Tanganyika after WWI. This is particularly after the 1929 Ordinance Act, which also approved involvement of private corporations in the mining sector in partnership with the government (Lange, 2008). The Ordinance is reported to have lasted up to 1969 after introduction of the Mining Ordinance Act by the government of Tanzania, among other, the newly introduced ordinance provided the the minister responsible of minerals the mandate to control mining and related activities in Tanzania (Lange, 2008). The year 1979, witnessed enactment of the Mining Act which gave the state the mandate in terms of controlling all aspects related to mineral resources (URT, 2001).

It should be noted that the mining sector has been firmly under the control and management of the state towards the

end of 1960s, following the Arusha Declaration, all the way to 1980s. The 1980s is reported to have opened door for the private sector in the economy, mineral extraction inclusive. Numerous changes in the economy together with challenges in the sector prompted the policy shift and approach towards mineral resources governance. In addressing challenges emerging in the mining industry the government in Tanzania had to undertake numerous reforms (Maliganya and Bengesi, 2018; Muhanga, 2016; 2019). The efforts resulted into policies and legislations to control the mining sector in Tanzania being the Mining Policy of 2009, the Mining Act of 2010, and the newly amended Natural Wealth and Resources (Permanent Sovereignty) Act of 2017.

### **3.5 Challenges in the Mining Sector and Economic Reforms**

Innumerable challenges have been observed with respect to mining operations in Africa and Tanzania in particular almost in the same period (Muhanga, 2019; Butler, 2004). These challenges resulted into insignificant contribution of the mining sector to the economies of most of the countries which are rich in terms of mineral resources. Having observed this, The World Bank (1992) advised the governments in Africa to concentrate on the mining sector as an effort toward generation of revenue hence improvement of the economy. The World Bank suggested “equal treatment for local and foreign companies investing in Africa. African governments were also advised to use their mineral resources to create jobs and reduce the unemployment rate”.

In assisting the resource rich countries, The World Bank focused on the legal and fiscal frameworks in the mineral industry, reform, and investment (World Bank, 2018). The technical report published in 1992 by the World Bank contained guidelines on how reforms in the mining industry could be undertaken. The most sensitive aspects of the guidelines are part of the 1993-94 World Bank’s report under the Mineral Industry Technical Support Programme for Tanzania. According to Butler, (2004), this report among others focused on private investment in the mineral industry particularly on the legal and fiscal framework. In the course of support to reform the mining sector in Tanzania, the World Bank supported rewriting of several laws including Investment Act of 1997 and the Mining Act of 1998. It was during that time on July 1, 1998, that the government approved the new Mining Act, replacing the Mining Act, of 1979 (Helliesen, 2012). The notable mining laws in Tanzania are the Mining Act of 1979, the Mining Act of 1998, and the Mining Act of 2010 (URT, 2010).

The year 1979, witnessed enactment of the Mining Act of 1979, this act provided citizens an opportunity to abundantly participate in mineral operations in respective mining zones by the use of prospecting rights. In order to meet the



demands of the Mining Policy of 1997, the Mining Act of 1998 was passed, which became, operational in August 1999, (URT, 1997). This act (Mining Act of 1998), bestowed the Commissioner for Mining an immense power pertaining issues concerning prospecting rights in mining zones in the country. It was in this act that special provisions were established for small-scale miners (URT, 1998). The provisions were meant “to control illegal mining activities and trading, to address the impact on the environment, to offer technical support to small-scale miners, and to enhance feasible small-scale mining operations and support them to become more formal and organized” (Tesda, 2000).

Analysts provide numerous criticisms on the Mining Act of 1979. Lobe, et al, (2019) argue that the act did not manage to provide an assurance to private investors. This is simply that security of land tenure of exploitation rights was not being well protected by the legal framework. It was observed that a lot of power was invested in the minister responsible for mines, hence creation of uncertainty and potential managerial delays (Butler, 2004). The Act provided prospective mining licenses to private mining corporations which had commitment in provision of employment to citizens but also prioritizing the use of locally produced goods and items (Butler, 2004). The Mining Act, of 1979 lacked dispute settlement mechanism independent from the minister responsible for mines. The geological information was not availed to the mining companies by the ministry of mining. The other criticism to the act is the fact that it lacked vibrant environmental legislation and standards (Butler, 2004). Following the failure of the government of Tanzania to attract both local and foreign investors to the mines, in 1996, the government decided to amend the Mining Act of 1979 (Lobe, *et al.*, 2019). These led to economic reforms supported by the government in Tanzania around the 1980s to 1990s which necessitated amendment of various legislations (Tanzania Minerals Audit Agency, 2016). These reforms meant to entice investors who are likely to avail capital, new technology, and expertise in the mining industry (Lobe, *et al.*, 2019).

The Mining Act of 1998 and the Investment Act of 1997 were formulated in connection to the World Bank 5-year's economic reform programme covering 1993/94–1998/99, this was when Tanzania was attempting to qualify for the eligibility for World Bank debt relief programme for the highly indebted poor countries (HIPC). The programme required reforms at the macroeconomic level which will introduce a free-market economy hence improvement of exports. This by itself required the government of Tanzania to initiate economic reforms in the mining sector, among others. The Mineral Policy responded to the analysis made by The World Bank on the identified underperformances in the mining sector in Tanzania. The analysis, *inter alia*, pointed to the need for a sound economic policy that can create a conducive environment for private sector investment

in the mining sector. The Mining Act of 1998 attempted to create an avenue towards creation of supportive environment for private sector investment (Butler, 2004). As a replacement of the Mining Act 1979, which was observed to failed to attract foreign investment in the mining sector, The Mining Act of 1998 was regarded to have the potential to govern mineral extraction, guide exploitation, and marketing (Muganyizi, 2012). The Mining Act of 1998 acknowledged the weighty input of the small-scale and large-scale miners also availed exclusive rights to “small-scale miners, including claim holder, broker, and dealer rights” (Muganyizi, 2012).

The 1998 Mining Act, provided a room for both the artisanal and small-scale miners to obtain a PPL for the period of twelve months (12) that could so be renewed. These licenses were for only small-scale miners who are citizens of Tanzania only, the licenses which are changeable to an ML or SML, with a condition these miners have to form a joint venture with a company that is capable to meet the annual expense requirements specified by the law (Butler, 2004). The PML was principally provided to small-scale miners after being applied from any zonal mining office in the Tanzania. This signified the decentralization of the administration of the mining zonal offices, generally it simplified fast tracking of applications of small-scale miners, and reduced costs too (United Nations Environment Programme, 2011).

The Mining Act, 1998 provided significant authority to the minister responsible for mining to substantially participate in Mining Development Agreements (MDAs) with investors in the mining sector and sign legal contracts on behalf of the Government of the United Republic. This can be done even without including the cabinet, parliament, Ministry of Finance, Bank of Tanzania (BoT), Tanzania Revenue Authority (TRA), and local government authorities hosting the mining operations to be signed. However, this raised concerns among citizens, intellectuals, and civil society groups with respect to whether on such arrangements mining contracts, could benefit the country and transform people's lives.

The Mining Act of 1998 provides for on how to handle aspects of compensation also the modalities when paying communities that have been affected by mining operations. A very rich discussion on compensation issues has also been provided in the National Land Policy (1995), particularly on sections 4.2.19 and 4.2.20. The policy overtly stipulates that compensation for land obtained for a public benefit such as mining, will be assessed its value and the owner will lose ownership. The important issues to be considered regarding compensation as per the Land Policy are the current market value of the land being compulsorily obtained, the provision for the landowner who will be losing economically by vacating that land, and the buildings that will be demolished



after seizing the land. The Land Act (1999) and Village Land Act (1999) are currently considered the main Acts accountable for all land issues in the country, including compensation. The law does not stipulate anything regarding the execution of CSR in the mineral industry nor the role of mining companies in the community where the mining activities are conducted.

The government of Tanzania had to make some amendments in The Mining Act of 1998 due to observed shortcomings particularly on aspects of royalties for processed precious stones. The changes in royalties included a 0% (instead of 5%) for unprocessed stones, and 5% for processed stones. Additionally, introduced a fine in case of non-payment of licensing fee or royalty on time. The right to formulate a Gemstones Board and is also provided by this legislation to the Minister responsible for Mining. The pointed-out changes have been heading towards strengthening the mining sector. Despite all these, the Mining sector faced challenges which led to the dissatisfaction of the public, as a result, the entire Mining Act of 1998 was rescinded and replaced with the Mining Act of 2010.

It is in the new Mining Act of 2010 that a legal framework whose focus is on mineral exploration, development, and marketing is established. The act also provides support to the solidification of economic integration involving diverse economic sectors with an aim of enhancing the input of the mining sector to the Gross Domestic Product and employment. It is this act that introduced, the aspects of CSR and emphasis on local communities' involvement in various community projects through the support of mining companies. Furthermore, the act needs Multinational Corporations (MNCs) that have invested in the mining sector to involve local communities and local government authorities in identification of priorities for community-based development programmes. In terms of employment, the act requires mining companies to distribute employment opportunities to those local communities residing in the vicinity of the mines.

In terms of management and supervision of the mining sector, the Mining Act of 2010 has proposed the Mining Advisory Board and Commissioner for Minerals to shoulder that responsibility. The day-to-day mining administration has been allocated to The Commissioner for Minerals, whereas the Mining Advisory Board has been allocated with the advisory role to the minister responsible for minerals. The President of the United Republic of Tanzania appoints the chairperson to the Board, while the minister responsible for minerals chooses members to the Mining Advisory Board. It is under this law that the Geological Survey of Tanzania has been mandated as an advisory entity to the Minister responsible for minerals on geological issues in Tanzania (UNESCA, 2016).

Furthermore, there are numerous regulations which have been established under the Mining Act of 2010 with an intention of regulating mining and related, including, "The Mining (Environmental Protection for Small Scale Mining) Regulation of 2010, The Mining (Minerals Beneficiation) Regulation of 2010, The Mining (Mineral Trading) Regulations of 2010, The Mining (Radioactive Mineral) Regulations of 2010 and The Mining (Safety, Occupational Health, and Environment Protection) Regulations of 2010". There are also mineral rights which have been established by the Mining Act of 2010. These rights comprise prospecting licenses, gemstone prospecting license, primary mining licenses, retention license, special mining license, processing licenses, refining license, and smelting license (UNESCA, 2016).

Tanzania Mining Commission was established through The Mining Act of 2010, *inter alia*, the Commission aims at regulating the sector in Tanzania, stressing on the need for enhanced control by the government on the mining sector and the increased royalties. The act insisted on those involved mining to contribute significantly to the Tanzania's economy by being supportive to the local content and Corporate Social Responsibility. The change in this legislation brought about an addition of 1 % clearing fee for the minerals exported from July 2017. Additionally, the changes also provide a room for the government to could renegotiate MDAs in case they are found unconscionable. The legislation also advocated for having All disputes in the mining sector to be arbitrated in Tanzania based on rules of Tanzania. The other important governance aspects brought about by The Mining Act of 2010 is the provision which prohibited shipping or transferring of mineral resources for extraction or dressing beyond the borders of Tanzania (URT, 2017).

It should be noted that the fifth phase government in Tanzania, which came to power in 2015 under the late President John Magufuli, had made a lot of efforts towards governance of natural resources. It can be observed that in October 2016, the government in Tanzania established the Mining and (Minimum Shareholding and Public Offering) Regulations of 2016, this regulation demanded SML bearers to issue the general public a minimum share of 30 % also register with the Dar Es Salaam Stock Exchange in a year's time following attainment of new mining licence (URT, 2016).

In order to control the natural resources, Tanzania had to enact the new laws. These are "Natural Wealth and Resources (Permanent Sovereignty) Act of 2017, and the Natural Wealth and Resources Contracts (Review and Renegotiation of Unconscionable Terms) Act of 2017". The concentration of the laws was on the mining sector together with any other changes emanating in the extractive industry in Tanzania. It is these laws that are providing for the





establishment of the Mining Commission, that has been charged with the responsibility of examining mining contracts, supervising and controlling mining activities. Other laws and guidelines were introduced in 2018 following the amendments of the Mining Act of 2010, known as “the Mining (Local Content) Regulations, 2018 and the Mining (Mineral Rights) Regulations, 2018” (URT, 2018).

There are numerous other laws focusing the mineral sector which are complementing the mining laws. The complementing laws and regulations include the “Constitution of the United Republic of Tanzania (1977) and the Income Tax Act, Cap 33 of 2004”. It is in this act that a special treatment on the issue of taxation for the mineral sector in Tanzania is provided. The special treatment was reflected in taxes such as Withholding tax, Corporate Income Tax, royalties, and transfer pricing. It should be noted that the investors in the mining sector in Tanzania have been enjoying numerous legal tax exemptions and other benefits. It is in section 15(3) that a provision has been established that permits mining corporations to transfer provisional funds dedicated to protection of the environment. The “Income Tax Act” goes simultaneously with the “Finance Act of 2016”, which presents innovative tax measures in mining sector in Tanzania. Section 65K (2) of the Act provides for corporate income tax for mining operations. Sections 65F (1) (a)-(c) of the Act establish limits in terms of deductions of losses involving separate mineral operations. The Value Added Tax Act of 2014 establishes VAT for goods and services utilized in the mining sector.

The Environmental Management Act (Act No. 20 of 2004) provides for mechanisms on controlling mining operations to avoid harms to the environment, thus is in connection to the Environmental Impact Assessment and Audit Regulations of 2005. These are the guidelines on conduct of Environmental Impact Assessment (EIA). Another important act is the Tanzania Investment Act of 1997 which guides and promotes investment climate in terms of regulatory role in issues concerning investment in the country.

The Ministry of Minerals has been mandated to regulate mining and related operations in Tanzania. This ministry has made efforts to guarantee Tanzanians do benefit from the natural resources. Through The Mining Act of 2010 and the Written Laws (Miscellaneous Amendments) Act of 2017. These laws permit both Tanzanians and non-Tanzanians to fully participate in mining extractions and related operations in numerous ways as provided in the sections IV and V of the Mining Act of 2010.

The new Written Laws (Miscellaneous Amendments) Act of 2017 needs all contracts concerning mining development signed before the new law to remain operative subject to the Contract Review Act. Section 10 of the Amendments Act further revokes Section 11 of the Mining Act (this permits

development contacts to cover the special mining licence period) and Section 12 of the Mining Act (provides for assessment of development contracts in a period of every five years) (Rumisha, 2019). The new Written Laws (Miscellaneous Amendments) Act of 2017 has reviewed the Permanent Sovereignty Act, and here the most vital amendments with respect to the Mining Act have been taken into consideration. The amendments have been applied through the endorsement of the Amendments Act. These amendments have aimed at guaranteeing that the government of Tanzania participates abundantly in the minerals industry and the citizens benefit significantly from the natural resources. It can be noted that various governance structures and issues in the Mining Sector in Tanzania are reported to have been established which serve several purposes through the policies and acts which have been enacted since independence.

#### 4.0 Conclusion

It has been observed that numerous mining policies and laws have been enacted since 1961 in Tanzania. These policies and laws have managed to establish various governance structures and aspects which have been employed to manage the sector in the country. It has been observed through the review that the government of Tanzania has been putting a lot of efforts to enable the public to benefit from the natural resources, minerals inclusive, by establishing policies and laws which could make this happen. Despite establishing these governance structures and aspects the country needs extra initiatives to create a win-win situation in the respective sector since there is still an outcry from the public on the failure of the sector to benefit them. The sad thing is that Tanzania though endowed with natural resources remains in the list of poor countries in the world sixty years after independence. Certainly, extra efforts are needed to walk Tanzania out of poverty through proper governance of the sector.

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