

# Mineral Rights in Tanzania: Analysis of their Evolution and Impact on Land Rights.

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# Introduction

- This paper looks into the evolution of ownerships and rights to mineral land and the impact of exploration and extraction on other competing land use developments.
- different systems of ownership to mineral resources and regulatory mechanism
- the way regulatory approaches to mineral ownerships, disposal and control have been influenced by the wave of trade liberalization that started in the early 1980s.

# Ownerships to Mineral land

- Systems of ownership to mineral land;
  - Land ownership
  - Claim system and
  - Concessionary system.

## **(i) Land Ownership System**

- The underlying rule of the land ownership system is that minerals are accessories to the land and thus, they belong to the land owner where they are to be found.
- In order to obtain mineral rights from private land owners, an agreement had to be reached except if the land had to be bought.
- The USA is an example of a country that holds land ownership system on private land.

# Ownerships to Mineral land

## (ii) Concessionary system.

- The right to access to mineral land and extraction is entirely pioneered by the government
- This system has its renaissance in the French Revolution which stressed that all minerals should be at the disposal of the state
- The system gives the state power by unrestricted assessment to decide to grant or otherwise mineral rights.
- The person whose land has minerals or who has discovered the minerals is subjected to compensation upon allocation of the right by the state.
- Tanzania, Belgium, France and Portugal are typical examples where this system is practiced.

# Ownerships to Mineral land

## (iii) The Claim system

- The procedure of granting mineral rights is based on who first discovered the minerals. It is sometimes referred to as *'first come first served'* system. Based on this system, the government only grants mineral rights to the claimant other wise they belong to no one until they have been found
- The system was exercised in Germany during the 15<sup>th</sup> century and in the USA in the 19<sup>th</sup> century.

# Mineral rights

There are essentially two basic mineral rights. These are:

- **Prospecting or exploration right**  
The process involving learning about undiscovered reserves and sometimes undertaken to improve the quality of known reserves.
- **Exploitation rights**  
Involves actual extraction of known reserves and construction of accessories necessary for mining activities.

# Granting of Mineral Rights

In countries where minerals are under the control of the state like Tanzania, private or legal persons acquire such rights through three traditional methods:

- Mining Acts,
- Mining Agreements and
- Mixed or hybrid system where the two methods apply simultaneously.

## Evolution of Mining Legislation in Africa

- The period between 1980 and 2000 marked an important event in Africa when different countries went to deregulate and regulate their sectors of the economy following recommendations from the World Bank (WB)
- Ghana, Guinea, Madagascar, Zambia, DRC, Mauritania and Burkina Faso are among the first in this.

# DISTRIBUTION OF CANADIAN MINING INVESTMENT IN AFRICA

- South Africa 25.6%
- DRC 17.8%
- Madagascar 13.8%
- Zambia 9.9%
- Tanzania 9.5%
- Ghana 6.5%
- Burkina Faso 4.7%
- Mauritania 3%

# The 1998 Mining Legislation in Tanzania

- Reforms in the mining industry began in the late 1990s in Tanzania as part of the World Bank (WB) and International Monetary Fund (IMF) debt relief
- The emphasis was for the state to provide an '*enabling environment*' for investors in all sectors of the economy
- Mining Act No.5 of 1998 replacing and repealing the Mining Act of 1978.
- Investment Act of 1997

# Mineral Rights in Tanzania

- a prospecting licence and a retention licence;
- a special mining licence,
- mining licence and gemstone mining licence;  
and
- primary prospecting licence and a primary mining licence

# Management of Mineral Land

- Minerals in Tanzania under Section (5) of Mining Act No.5 of 1998 are owned by the President on behalf of the citizens.
- The Commissioner for Mining is entitled to manage all declared mining lands in Tanzania

# Acquisition and Compensation

- Acquisition and compensation done under the provisions of the Land Acquisition Act (1967) and the Land Act Na.4 (1999)

# **The Myth of being on Mineral Land**

- **Mass Unemployment**
- **Conflict Resolution Problem**
- **Acquisition and Compensation**

# Conclusion

- There is a need of signing of specific comprehensive agreement between the government, developers and the people who have interests in the project.
- Over compensation, there should be a kind of compensation for the herders, farmers and other land use developments for private business activities like mining.
- There is a need to look into the way the government alienates land from people and designate it for mining extraction. This affects tenure structures and land rights to many particularly farmers in the rural areas.

# Conclusion

- Mining Act Na.5 of 1998 and the Land Act Na.4 of 1999 need to be harmonized to deal with conflicts emanating from mining extraction and other land use developments.



EXTRACTION PLANT AT BUZWAGI GOLD MINE



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