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The parcelling and privatisation of the large state-owned mining conglomerate Zambia Consolidated Copper Mines (ZCCM) involved the signing of Development Agreements (DAs) between the Zambian government and the new private investors. These DAs were concessionary to the new investors, offering low taxation rates, tax exemptions and deductions. But in 2008, under political pressure from the opposition, then President Mwanawasa abrogated the DAs with a new Mines and Minerals Act, removing exemptions and deductions and increasing taxation rates. This action set in motion a decade long period of contestation over mining taxation in Zambia, with the introduction and retraction of numerous mining taxation policies. This paper endeavours to explore the motivations, constraints, and economic and political implications of these oscillating mining taxation policies, in an effort to better understand the dynamics of resource nationalism in Zambia

Key words: Resource nationalism, development agreements, mining taxation

1.0 Introduction

Resource nationalism has in recent years become a topical issue in state development and investor policy debates especially in sub-Saharan Africa. Resource nationalism describes the desire by nationals of resource rich countries to derive more economic and developmental benefits from their natural resources. It further addresses the resolution of governments in resource rich countries to exercise a greater degree of control in the respective non-renewable resource sectors of their economies. The important drivers of resource nationalism are unequal distribution of mining wealth, low contributions to government revenues from mine companies, an upturn in international commodity prices and poor development performance in mineral rich African countries (Saunders and Caramento, 2018).

New developmental approaches and outcomes have surfaced based on debates around the new strategies that have strengthened new forms of intervention. For instance, some policy makers and academic practitioners in the global south have looked to the 'developmental state model' that is based on the success of the East Asian developmental experience. Others have noted that some states such as those in sub-Saharan Africa are prone to variations of neopatrimonialism, predatory tendencies and weakened states due to neoliberalism (Saunders and Caramento, 2018). Despite notable differences in prevailing conditions between the nature of the state in sub-Saharan Africa and East Asia, especially between the 1970s and 1980s, common views emerge on the need to subordinate some forms of international capital to the macroeconomic development imperatives of the affected countries.

For sub-Saharan countries such as Zambia, resource nationalism has been apparent in the extractive sector, especially the mining and metals industry. Key areas of contestation have emerged on issues including ownership and mining sector governance, fiscal regimes, production, and human and environmental rights. In recent times, the reality of resource nationalism has been manifested through attempts to institute mining taxation regimes that deliver taxation benefits back to the national economy. This has resulted in repeated changes in Zambia's mining tax regime, at times with detrimental economic and social implications. A notable characteristic of the changing tax regimes is that different approaches were introduced whenever there was a new political regime. This demonstrates lack of national consensus and strategy on how to exact benefits from natural resource exploitation. The changes in mining taxation arise from general dissatisfaction with the stream of benefits obtained from the mining industry relative to the government's development agenda. Historically, Zambia's development and the citizens' standards of living have been closely linked to mineral resource exploitation. Therefore, any decline in benefits from mining are widely felt in the country and the communities around the extractive industry. This complicates the extraction of benefits from the sector as it has socio-political implications. There are many other reasons why taxation in Zambia's mining sector is not consistently straightforward to implement. On one hand, mining requires huge investments. Therefore, investors in mining expect to reap benefits first before being subjected to taxation. On the other hand, politicians and citizens in the country expect that mining should contribute to socio-economic development and alleviation of poverty as a matter of urgency. Contestations in mining tax regimes in Zambia therefore often lie in the mismatch between the expectations of mining companies and the government and its citizens. Admittedly, mining companies require a stable political atmosphere to make a profit. On the other hand, successive governments in Zambia have displayed a desire to craft tax regimes that immediately optimize benefits including jobs, tax returns and social investments in mining communities (Nyangu, 2020).

Formulation of mining tax policies requires a broad, long-term, consistent and sustainable perspective. Oscillations in mining taxation often indicate a challenge in managing the long-term perspective alongside short-term political expectations that meet the prompt revenue needs of the government. Revenues from mineral resources tend to be volatile and are heavily debated in what can be called an unstable policy space. The Zambian political space has been changing, resulting in no specific approach on how taxation in mining should be managed in the long run. Every new government sets its own rules on how to extract benefits from the sector. Consequently, changes in the mining tax regimes take mining companies by surprise. This erupts into contentious negotiations on how opportunities for employment and revenue in the sector can be optimally realised (Adam & Simpasa, 2009). This paper attempts to discuss Zambia's awakening to the reality of resource nationalism, focusing on the country's oscillating mining taxation. It also discusses recent conflicts related to ownership and management of resources amidst inadequate returns in the form of dividends to shareholders and employment from the mining sector. The paper will first give a brief overview of Zambian mineral governance during the colonial period and also a description of mineral resource governance after independence in 1964. This will be followed by a discussion of Zambia's desperation to keep the economy running demonstrated by privatisation after the failure of the nationalisation policies of the 1960's and 1970's. The paper will then highlight the implications of privatising the Zambia Consolidated Copper Mines (ZCCM) and subsequent changes to the country's mining taxation regime through the Mwanawasa, Sata and Lungu governments' administrations aimed at improving the country's mining taxation regime in order to provide welfare benefits for the citizens.

2.0 Mineral Resource Governance: mining during the colonial period

Zambia was colonised through concessions between the British South Africa (BSA) Company and Kings Lewanika and Mpezeni of the Lozi and Ngoni people respectively. As a consequence of this colonisation, the BSA company held mineral rights in the country (Martins, 1972). Commercial copper mining started with the opening of Roan Antelope Mine in Luanshya owned by the Roan Selection Trust (RST). RST also operated the Bwana Mkubwa mine near Ndola, and the Mufulira and Chibuluma Mines. The Anglo-American Corporation (AAC) opened mines in Kitwe and Chingola. Industrial copper mining transformed the Northern Rhodesian (later Zambian) economy from being an agricultural economy to a predominantly mining economy. Copper output grew from six tons in 1930 to 579 tons in 1960. From 1954 to 1961, the copper industry contributed an average of 46.5 per cent to GDP as table 1 shows.

Table 1 Origin of GDP 1954-1961 (% Distribution)

Industry	1954	1955	1956	1957	1958	1959	1960	1961
Agriculture	13.0	10.4	10.2	13.3	13.3	11.9	11.4	12.6
Mining	52.4	56.8	54.0	39.0	32.6	45.4	47.5	44.0
Manufacturing	4.0	3.9	4.4	6.4	7.1	5.6	5.5	5.9
Construction	6.1	6.2	6.7	8.6	9.7	5.8	4.5	4.1

Source: Baldwin (1966:35)

Table 1 above shows the dominance of the mining sector between 1954 and 1961. In the same period agriculture contributed an average of 11.9% to the GDP. Manufacturing contribution was quite low fluctuating around 5.4%. This was mainly because manufacturing establishments were being concentrated in Southern Rhodesia (now Zimbabwe). The rapid development of the mining industry and European capitalist agriculture left an everlasting imprint on the country's economy. During this period there were no real contestations as to who received the most benefits from mining. The two international mining companies the RST and the AAC paid a corporation tax of 45% and export tax of 40% to the colonial government while mineral royalty taxes were paid at the rate of 13.5% to the BSA company (Curry, 1984; O'Faircheallaigh, 1986). The mining companies were able to pay these taxes without contestation with the state. One can assume that this is because the companies themselves were domiciled in Britain and they also had shares in the BSA Company.

3.0 Mineral governance after Independence in 1964

At independence in 1964, Zambia embarked on its first negotiations to change the tax regime affecting the mining companies. This was necessitated by the fact that during the colonial era and in the early years of independence, mineral rights were still in the hands of the BSA company to whom mineral royalties accrued. After independence, all prospecting concessions that were in existence and previously owned by foreign nationals were cancelled. Existing mineral rights as well as trade in minerals came under state control. Companies that were in operation before 1964 were granted prior claim on some of their previous concessions. However, companies that were deemed inactive were required to apply for the concessions in open competition. The Matero Reforms of 1969 enabled the government to obtain mineral rights and so also the opportunity to embark on changing the tax regime in order to raise revenues for infrastructure development. The immediate post-independence mineral tax structure inherited from the colonial period, had three major components:

the royalty tax of 13.5% based on the London Metal Exchange copper price, the export tax of 40% if and when the copper price exceeded US$300 per long ton at the London Metal Exchange and a corporate income tax of 45% (Curry, 1984; O'Faircheallaigh, 1986). While the first two taxes were revenue based, the corporation tax was a profit-based tax. O'Faircheallaigh concludes "this three-fold tax regime produced a total effective tax rate of 74.4%" (O'Faircheallaigh, 1986). After nationalisation of the copper mines the government changed the tax regime. The new tax structure became effective in 1970. The mineral royalty and the export tax were replaced with the mineral tax of 51% on the value of production and a corporation tax of 45%. Although these measures raised much needed revenue for the government, the mining companies argued that such high taxes on production and profit discouraged investments and growth of the industry (Curry, 1984). It was during this period that contestations of the mining tax regimes started. Mineral royalty tax which was part of the mineral tax, was to be paid to government as opposed to the BSA company. This became a sticking issue for the RST and the AAC.

During the 1960s and 1970s, there was massive demand for metals on the global market, which made Zambia's mines highly profitable. This decade was characterised by high international mineral prices as well as high metal production. For Zambia, high copper prices meant the mines earned substantial profits. The mineral tax regime was highly effective in capturing a large share of these profits—approximately about 70% for the government. Between 1965 and 1970, mineral tax receipts peaked, contributing between 52 and 71% of government revenue and equivalent to 15–19% of GDP. These were exceptionally high figures for a non-oil exporting country. Consequently, the Zambian government had access to substantial financial resources in the first decade of independence. These proceeds from the mining sector largely financed the extraordinary expansion in public services and in the role of the state (Whitworth, 2015).

Given the good performance of the mining sector, the government hoped to significantly improve the standards of living of the people as well as to diversify the local economy. The desire to diversify the Zambian economy involved major industrialisation efforts by the government. Mining became a state-directed activity with the view to transform Zambia into a beacon of national development and industrialisation through a distribution of mining rents. The government hoped to redistribute the benefits from mining through employment creation for local people and increased expenditure on social services, especially education, health and nutrition for mining communities. The government also wished to register higher budget revenues from having a direct stake in the business (Open Society Institute of Southern Africa, 2009). Throughout this period, mineral prices were rising due to the rapid growth in international demand for primary raw minerals. This demand was further created by metal-based growth in both the newly industrialising and industrial countries.

In 1968, President Kaunda had advanced the nationalism agenda in the manufacturing sector through the Mulungushi Economic Reforms. In these reforms a distinction was made between enterprises. Enterprises were categorised as State Enterprises; Zambian Private Enterprises; Foreign Controlled Enterprises and Resident Expatriate Enterprises. This categorisation was guided by Kaunda's philosophy of humanism. The focus of this categorisation was on dealing with the dominance of European and Asian business communities in national economic activity. The rationale behind this was that many of the foreign business players had been residents of Zambia for many years, but refused to take up Zambian citizenship. Since independence, Dr. Kaunda's government made repeated appeals to members of the foreign business communities to identify with the nation and indigenise some of their businesses with immediacy. This led many foreign business owners to take up Zambian nationality with pledges to direct their efforts to train indigenous Zambians for skilled and executive positions (Macmillian, 2008). The Matero reforms emphasized the need for the state to have an over 51 per cent stake in mining companies. Accordingly, the government took controlling interests in the RST and the AAC.

However, a considerable number of foreign inhabitants chose to remain outside the national family as proposed by the reforms. These attracted negative feelings. The government believed that such businessmen were out to take advantage of the economic boom created by the Transitional and the First National Development Plans. It was believed that such businessmen retained their interests outside Zambia in countries such as South Africa, Britain, Europe and India. The anticipation was that they were ready to exit the country once they recorded huge profits, leaving nothing for the Zambian people. The drive towards economic nationalism and economic independence was also a direct response to Southern Rhodesia's Unilateral Declaration of Independence (UDI) and the failure of the United Kingdom to mount an adequate response to it.

In essence, these major economic reforms were implemented to meet the desire for Zambians to directly control economic activities, as well as to benefit from the proceeds of the country's copper industry. The Zambian government was developmentally oriented, ensuring that the realised rents from mining activities of newly state-owned mining companies were channelled towards meaningful development. Mining revenues constituted a large share of government revenue that was used to finance Zambia's national development agenda (Open Society Institute of Southern Africa, 2009). In 1969, Zambia's gross domestic product (GDP) had grown impressively as a result of the high international commodity prices. In fact, Zambia's GDP per capita exceeded that of South Africa, Korea and Brazil.

In 1970, the Mines Department, the regulator of mining companies operating through the Ministry of Trade, Industry and Mines, set out to prepare a new register of mineral titles. This was done to maintain records of all the valid prospecting rights in Zambia. International companies that were entirely new on the Zambian mining scene also actively expressed interest in acquiring prospecting rights (Davies, 1975).

These reforms did not go unchallenged. Internally, there was disagreement about aspects of these policy changes. Although the formation of the opposition United Progressive Party (UPP) was motivated principally on the grounds of inadequate representation of the 'Bemba group' in government, in its early days, the Kapwepwe driven UPP supported the nationalism agenda for Zambia's extractive sector (Larmer, 2007). It however emphasised that benefits from the copper mines should go to individuals rather than to the state. This made Kapwepwe popular not only in Northern Province but also on the Copperbelt. The move by Kaunda to nationalise the mining industry can be interpreted also as part of the fight to undercut the UPP's leadership under Kapwepwe and gain political dominance. The fight for political hegemony between the Kaunda faction and the Kapwepwe faction led to the dissolution of the UPP through the declaration of the one party state by Kaunda in 1972. The implementation of one party rule and arguments for nationalisation under the humanist political ideology served the Kaunda faction's aim to retain political dominion. The one party state and the nationalisation agenda under this regime may thus be argued to not only embody a vehicle to deliver economic development in Zambia, but also to dominate political control of the country (Mushingeh, 1993).

Despite the opposition, the country recorded major progress in the first decade of independence with improved educational, housing, health and infrastructural provision countrywide. Mining companies contributed to establishing hospitals and recreation clubs in all mining settlements. Later in 1982, the two nationalised mining companies Roan Copper Mines (formerly RST) and the Nchanga Consolidated Copper Mines (NCCM) were consolidated into the Zambia Consolidated Copper Mines (ZCCM). The overall operations of the mining activities now fell under the Zambia Consolidated Copper Mines (ZCCM). ZCCM had an effective and operational welfare policy with a wider range of amenities than those provided by private mining companies before it. The welfare policy advanced by ZCCM ensured that there was subsidized housing, water, electricity and transport for miners and sometimes, other inhabitants of the mining communities. The policy also stretched benefits to miners' newly born infants by providing necessities like nappies and free education for all the miners' children through the company's mine schools. The mines management ensured that the benefits of policies were far reaching and trickled down to even non-miners in mining settlements (Lungu, 2008). The copper mining revenues also financed the development of other sectors including agriculture.

These developments led to some national benefits from copper mining revenue including improvement in local infrastructure, linkages to other sectors and the generation of foreign exchange earnings and government revenue (African Forum and Network on Debt and Development, 2009). Although thinly and unevenly spread across the country, the gains from mining extended through ZCCM also comprised the creation of mine employment, tangible road maintenance and environmental management services to Copperbelt communities. High-standard schools were built where excelling children of miners and sometimes non-miners were enrolled. These students were later sent to top universities all around the world to train, mainly in mining disciplines. Artisan training colleges were also set up for miners and school leavers who were to be employed by the mines (Sikamo, et al., 2016). These benefits from mining were considered to be a contribution towards improved standards of living for average Zambians. (Fraser & Lungu, 2007). The contributions ZCCM made mitigated against any changes to the tax regime. There were basically no contestations on the benefits from mining as ZCCM was state owned. However, the years of independent Zambia's shared glory through high copper prices was short lived. In 1974, copper prices drastically collapsed as a result of the first oil crisis. Zambia still desired to maintain good standards of living for a majority of citizens and was forced to borrow to finance the large bill for social provision. The low copper prices meant that the country could not even afford to finance its parastatal companies, nor afford to provide needed funds for a large workforce in the public service. The crises led to immense poverty both at national and household level (Lungu, 2008).

In 1979, the second oil crisis presented a further challenge to the Zambian economy. The country recorded a severe debt that crippled hopes of economic recovery using the copper financing model of development. Despite the many political declarations to this effect, the hopes of industrialising through the use of mining rents failed miserably for the country (Open Society Institute of Southern Africa, 2009). ZCCM's priority of continuing to finance national programmes at the expense of its own operations resulted in major losses for the entire economy. ZCCM carried a financial burden which overwhelmed it, resulting in undercapitalization. The conglomerate failed to replace worn and obsolete machinery. Diminishing investment in technological upgrades for operative mining equipment made it even more difficult to mine at deeper levels. To make things worse, mineral grades were becoming poorer, requiring larger quantities of ore to break even. Inevitably, production declined while production costs increased. This led to reductions in employment levels in the mines. Meanwhile, the international price of copper remained low while the oil price was skyrocketing. Business prospects of the mines became bleak. This was a disaster for the national economy, given its heavy reliance on copper mining (Sikamo, et al., 2016).

This situation led the International Monetary Fund (IMF) and the World Bank to begin to push the country towards economic liberalisation as a precondition for loans. The reasoning was that the Zambian government was unable to fund its budget based on the mining revenues. As a consequence, in 1983, the country entered its first World Bank structural adjustment programme. From then on, the two international finance institutions took a major role in directing Zambia's economic policies (Fraser & Lungu, 2007).

The austerity measures accompanying the IMF and World Bank loans resulted in food price rise protests and riots in 1987. As a result, the government of Zambia rejected the conditions of the loan and set itself on a 'New Economic Recovery Programme.' The New Economic Recovery Programme limited debt-service payments to 10% of net export earnings. However, by September 1987, almost all of Zambia's donors collectively decided to starve the country of the much needed assistance since Zambia had refused to pay the IMF's preferred rate on the loan. This led to further build up of arrears with no incoming income. Within eighteen months of continued economic struggle, Zambia was awakened to the fact that the price of future support was compliance to donor priorities. The Zambian government then realigned its position and accepted to re-engage the World Bank and the IMF since it had no choice under the prevailing economic circumstances. Subsequently, the government devalued the currency, removed price controls and even cut off existing subsidies on food.

The economy, however, continued to decline and in 1989, there were repeated urban food riots and industrial unrest reflecting the unpopularity of the ruling party UNIP and Kaunda. In 1990, the Movement for Multiparty Democracy (MMD) was formed, headed by ZCTU leader Frederick Chiluba. The MMD won the elections in 1991 (Bratton & Van de Walle, 1997; Baylies & Szeftel, 1992)). In their manifesto, the MMD promised to liberalise the economy and privatise state owned enterprises. The ascendancy to power of the MMD ensured a return to neo-liberal approaches to economic management. The realities on the ground, the pressure from the donor countries and the international finance institutions, and the change in political thinking made the state rethink the country's development strategy. Because the country's economy has historically hinged on copper mining, the privatisation of the mines was critical to the country's development agenda. It was thought then that privatisation of the copper mines would once again attract foreign investment into the sector.

4.0 Desperation to keep the Economy Running: The Privatisation Era

The original momentum of the MMD was attributed to trade union-led resistance to structural adjustment, and by the time of Zambia's first elections, the unions had also made considerable alliances within the business community, human rights groups and civil society. The MMD operated on a manifesto that promised to liberalise the economy as well as secure a new democratic dispensation. During this time, the Mine Workers Union (MUZ) endorsed privatisation partly due to the fact that trade unionists suffered from decline in nationalised companies, like everyone else. MUZ also supported the MMD because they saw the need for new investments and perceived the dismantling of state-owned industries as a way to challenge UNIP's power base. Furthermore, both the trade unions and MMD were convinced that the only way to recover the shattered economy was to win back the trust of international banks and investors. This entailed accepting the demands of donors (Simutanyi, 2008; Fraser & Lungu, 2007).

Donors also had high hopes that an energetic, reforming government could lead the first move away from nationalisation towards a popular privatisation process in Africa. They aimed to support Zambia in transitioning into a 'success story' by buying the MMD an extended political honeymoon (Lungu, 2008; Fraser & Lungu, 2007). This implied giving the country aid designed to cushion the social and political impact as the donors pushed through a massive programme of economic shock therapy. Over the first few years, there was a generous inflow of aid to Zambia. This led to about 40% of the Zambian government budget being donor supported (Lungu, 2008; Rakner, et al., 2001).

However, the considerable donor support came at a cost. There were attached conditionalities that were related to the privatisation programme that started in 1992. The privatisation process was designed to sell 280 state owned companies. By June 1996, 137 companies had been sold in a process that was highly recommended by the World Bank as a model for other countries, given its speed and thoroughness. Yet, others condemned this speedy process citing possibilities of inevitable looting, deindustrialisation, deepening debt and poverty that they saw would emanate from it (Rakner et al., 2001). During the entire process, foreign firms bought the largest and most viable firms with very little profit remaining in Zambia. In 2002, the World Bank eventually admitted that despite massive lending and the accelerated adjustment programme, the supply response from the extensive privatization of small and medium enterprises was very limited (Lungu, 2008; Rakner, et al., 2001).

From the onset, the crown jewels of privatisation in Zambia were identified as the copper mines. As early as 1993, Zambia's second Privatisation and Industrial Reform Credit from the World Bank required that the government studied options for privatising ZCCM (Fraser & Lungu, 2007).

Meanwhile, government had sought delays for technical and political reasons with the issues becoming sticking points in relations with donors. Both the government and donors accused each other of bad faith in the process. MUZ expressed concerns that unbundling of ZCCM into several companies would only leave less attractive assets with an insecure future for the Zambian economy. MUZ was also concerned about the disintegration of ZCCM leading to more liabilities for the Zambian government. Better still, they concluded, to encourage one serious investor to take over all the liabilities and the facilities. Notwithstanding the concerns that MUZ had, the introduction of intra-company competition would drive down conditions of service for their members (Simutanyi, 2008; Lungu 2008).

The deadlock was broken by a window of opportunity for debt cancellation unveiled by the World Bank in 1996. The World Bank introduced the Highly Indebted Poor Countries Initiative to which Zambia had qualified. However, with Zambia's qualification, there was still more pressure for the government to push through with the privatisation programme which was more controversial. In many cases, the state stalled in an effort to still preserve some resources with a national identity and to try to appease domestic interests. Eventually, the state gave in and chose debt relief over domestic policies. Throughout the process of privatisation, the state was being encouraged to create an 'investor-friendly' policy regime. To this effect, the World Bank placed a condition in the second Privatisation and Industrial Reform Credit (PRIC) loan in 1993 that reforms to the Investment Act be made. The most significant policy changes were embedded in the 1995 Investment Act and the Mines and Minerals Act of 1995 (Fraser & Lungu, 2007).

The Investment Act established the Zambia Investment Centre (ZIC) (Fraser & Lungu, 2007). It laid down the procedures and the process for buying into the Zambian economy and provided the general incentives that would apply to all investors. On the other hand, the Mines and Minerals Act of 1995 provided for incentives for investors in mining and permitted government to enter into development agreements with specific companies. Under the development agreements, government could extend even more incentives including reduction in royalty rates (Lungu, 2008; Simutanyi, 2008).

5.0 Implications of ZCCM Privatisation on Zambia's Mining Taxation Regime

The privatisation of the copper mining industry at the end of the 1990s ushered in foreign ownership of large-scale mining companies that bought mining rights from the Zambian state. The mines were privatised at a time when they were incurring heavy financial losses and copper prices were at historic lows. The Zambian government was thus in a weak negotiating position and had to offer generous tax concessions to buyers of the loss making mines. In addition, the huge maintenance backlog at the privatised mines implied that the new mine owners were to invest substantial amounts targeted towards clearing the backlog. This was alongside the additional investment the new mine owners had to make (Whitworth, 2015). Thus, privatisation of the mines was characterised by agreements that stipulated very favourable terms to buyers when it came to tax obligations in the form of company tax and mining royalties. These agreements made between the Zambian government and the new owners of the privatised mining assets were referred to as Development Agreements (DAs) and were signed between 1997 and 2004.

Interestingly, in place of a uniform tax regime, DAs that were unique to each mining company were considered more relevant. These individualised DAs were highly confidential (Manley, 2012; Rakner, 2017)). The DAs were kept secret to the extent that even access within government including the tax authority appeared to have been extremely limited. The implication of the DAs being highly classified was that there was no room for meaningful consultations, open public discussions or disclosures of the terms of the agreements (Rakner, 2017). Depending on the mine in question, each agreement included a stabilisation clause inhibiting the government from increasing the burden of tax on the mining company, and allowed withholding of corporate tax by carrying forward losses for 15 to 20 years (Fraser & Lungu, 2007). Further, a significant feature of the DAs was that the government agreed not to make any amendments to the tax regimes negotiated for a period up to 20 years. This presented an unusual feature in the debate on mining tax regimes. In the case of most tax regimes, there is an allowance for accelerated depreciation of investment to be deducted from taxable profits, allowing tax losses to be carried forward to future years. Yet, Zambia's regime allowed for investment to be fully depreciated in the year of investment, instead of being spread over a number of years (Whitworth, 2015). As stated earlier the incentives given varied depending on when the negotiations were finalised (see Table 2).

Table 2: Incentives Given to the Various Mining Companies in their Respective Development Agreements

Name of Company / Year of Agreement	Royalty Tax Rate	Provision for Capital Investment Deductions	Corporate Tax Rate	Provision of Carry-over Losses	Customs Duty	VAT	Foreign Currency Retention	Withholding Tax	Stability Period
Konkola Copper Mines *2000*	0.6	100%	25%	Can carry forward losses	Exempt (Excise duty on power (0%)	Refund on net input VAT (0%)	100%	On dividends (0%)	20 years
Mopani Copper Mines *2000*	0.6	100%	25%	As above	As above	As above	100%	On dividends (0%). After stability period (10%)	20 years
NFC (Africa Ltd) *1998*	*	100%	35%	As above	As above including no customs duties on personal effects	As above	100%	0%	15 years
Chambishi Metals *1998*	2.0	100%	35%	As above	Exempt on machinery and equipment. Excise duty on power (10%)	As above	100%	0%	15 years

* The NFCA Development Agreement states that the company will pay royalties at the 'rate prevailing'. This is not further clarified, but might imply the company has no concession in this area and would have been paying at the rate in the Mining Act – 3%

Source: Various Development Agreements

Shortly after the DAs were instituted, a copper boom followed creating a deepening crisis of legitimacy both for the Zambian government and the new mine owners (Fraser & Lungu, 2007). The lack of increases in tax revenues relative to GDP and, hereunder, the portion of tax revenues that come from company taxes and mining royalties, were a key challenge for political authorities in Zambia. Subsequently, the government's inability to earn revenues from the mines motivated national and transnational civil society organisations as well as opposition parties to pressurise the government into renegotiating the agreements. There was heated public debate over the mining taxation regime in nationalistic terms. This was similar to debates that were trending in South Africa linked to Black Economic Empowerment (BEE) and as well as land reform debates in Zimbabwe. Zambia then adopted a similar version of BEE which was embedded in the 2006 Citizen Economic Empowerment Act. This occurred just before the 2008 Mines and Minerals Development Act was enacted. The Citizen Economic Empowerment Act was key because to some extent, it responded to some of the political pressures that were implied in the mining tax revision (Rakner, 2017).

6.0 Political Responses, Legislation and Mineral Governance since 1995

After privatisation, Zambia's effective tax rate paid by the mining firms was the lowest relative to other countries in the world. The unfair terms of the DAs brought dissatisfaction to the Zambian population. There was political mobilisation which resulted in two new legislative acts that cancelled the DAs and led to the implementation of new restrictive taxation regimes (Rakner, 2017). Subsequently, under the leadership of MMD and republican president, Levy Mwanawasa, the DAs were revoked in April, 2008.

The Mines and Minerals Development Act No. 7 of 2008 ruled that no special agreements were to be entered into by the government for the development of large-scale mining licenses. Furthermore, the Act cancelled the existing DAs and recommended a series of changes that were to be made to the tax code. Mining firms were now expected to operate under a common legislative framework regulated primarily by the Mines and Minerals Development Act No. 7 of 2008. Some of the striking changes included the institution of a windfall tax with rates of 25%, 50% and 75% above certain copper price thresholds and decreased tax deductibility on capital from 100% to 25%. Furthermore, with the admission that taxation levels were too low, tax increases were made in 2007. This led to the increase in royalty tax to 3% from 0.6% and corporate income tax to 30% from 25%.

The windfall tax however, was never fully implemented in practice. In 2009, there was a sharp decline in the copper price. This led the Zambian government to remove the windfall tax completely. In turn, the government increased tax deductibility on capital from 25% to 100%.

There was a wind of political change in the 2011 presidential electoral process. Michael Sata, leading the Patriotic Front (PF), emphasised nationalistic strategies and solutions to a range of problems. These problems were widely accepted by urban and rural Zambians and included urban disorder, inequality, precarious employment in the mines, corruption and the dependence of Mwanawasa's administration on Western – and, increasingly, Chinese – sponsorship (Fraser, 2017). In particular, Sata's anti-Chinese election rhetoric resonated among many Zambians. Many people felt that China was benefiting from Zambian resources, at the expense of Zambians. The general sentiment was that the copper mines and mining activities delivered more benefits to the people of Zambia when they were still run by the government. Through the 'More money in your pockets' slogan, many people in Zambia believed that the national economy would benefit more from available resources under a PF government. (Mulowa, 2011). As a result, the PF led by Sata was ushered into power in 2011 removing the MMD that had ruled the country for 20 years. In

2012, the PF government instituted new tax reforms by increasing the royalty tax from 3% to 6%. The hedging and operating income were to be treated separately for income tax purposes. Under the same political regime, in 2013, the government further decreased the rate of capital allowances from 100% per annum to 25% per annum. The government also reduced the export duty on copper from 15% to 10%, and set the tax on hedging income at 35% (Nyangu, 2020). Two years later some changes were made removing the variable income tax on profit and the uniform 6 % royalty rate. These were replaced by a royalty system only that was set at 8% for underground mines and 20% for open cast mines (Fjeldstad et al., 2016).

Following the death of President Michael Sata in 2014, the country took to the polls and President Edgar Lungu was ushered in as President of Zambia. Lungu promised to continue the agenda to deliver benefits from the extractive industries to the people of Zambia. The election of Lungu demonstrated a rejection of neo-liberal policies in favour of nationalistic populism meant to address class disparities. Lungu was to deliver pro-poor policies, deliver mining revenue benefits countrywide and maintain the popularity of PF. In July 2015, the PF government reduced the royalty tax to 6% for underground mines and 8% for open cast mines. Further, the government reintroduced a corporate tax set at 30% as well as a variable income tax at 15% on profits above 8% of gross sales (Rakner, 2017).

In February 2016, parliament then approved a new tax regime in which the variable profit tax was revoked and the existing royalty system was replaced by a price-based system. With pressure from the mining lobby, the royalty tax was now set to vary between 4% and 6% depending on the price of copper. The sliding scale would apply for both open cast and underground mines (Rakner, 2017). However, Manley noted from his analysis that the Zambian government would fail to capture sufficient mineral rent when mineral prices rise (Manley, 2012). This was due to the fact that a price-based royalty does not have price brackets and rates at prices higher than USD 6,000 per tonne of copper cathode. Also, the removal of the variable profit tax would eliminate a useful mechanism for ensuring flexibility in the tax take. Conversely, a tax regime that is progressive is to a larger extent sensible. This may hold better given that Zambia remains highly exposed to the risks of falling mining revenues. Most notably, previous regimes used the variable profit tax to provide this progressivity. Since independence Zambia's mining taxation regime has been oscillating as demonstrated in Table 3:

Table 3: Changes in the Mining Tax Regime in Zambia – 1964 to 2016

	1964	1966	1970	1983	1986	2000	2008	2009	2012	2015	2016
Royalty	13.5	13.5				0.6	3	3	6	6-9	4-6
Export tax		40		4-8	13						
Mineral tax			51	51	51						
Corporate Income Tax	37.5		45	45	45	25	30	30	30	30	30
Variable income tax							15	15	15	15	
Windfall tax							25-75				
Capital allowance	5	5	100	100	100	100	25	100	100	25	25
Reference price	Yes	Yes	No	No	No	No	Yes	Yes	Yes	Yes	Yes
Ring fencing	No	No	No	No	No	No	Yes	Yes	Yes	Yes	Yes
Loss carry-forward	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Tax haven owner	Yes	Yes	Yes	No	No	Yes	Yes	Yes	Yes	Yes	Yes
Share of govt ownership			51	100	100	10-20	10-20	10-20	10-20	10-20	10-20
Fiscal stability	No	No	Yes	No	No	Yes	No	No	No	No	No

Source: Adapted based on Lundstol and Isaksen (2018). All figures in per centages.

In President Lungu's administration, there were more recent notable proposals to change the mineral taxation regime. The Minister of Finance, Mrs Margaret Mwanakatwe, in her presentation of Zambia's 2019 budget indicated Zambia's intention to introduce mining duties and raise royalties in an attempt to reduce the country's fiscal deficit. In particular, Mrs. Mwanakatwe indicated plans to increase the country's sliding scale for royalties by 1.5 per centage points. The scale is adjusted so royalties are paid at higher levels as commodity prices climb and are reduced as prices fall. Introduction of a fourth tier rate at 10% on the sliding scale mineral royalty regime which would apply when copper prices rise beyond USD 7,500 per metric tonne was also noted in the budget address. Mineral royalty tax in 2019 was to be non-deductible for income tax purpose. The mining sector also saw an introduction of an import duty at the rate of 5% on copper and cobalt concentrates. The 2019 budget additionally proposed the introduction of a 15% export duty on gold and precious stones. In addition, the suspension of the export duty on manganese ores and concentrates was to be lifted and the duty was raised from 10% to 15% (GRZ – National Budget, 2019).

In general, the 2019 budget increased the mining companies' obligations to pay taxes. These increases would make a difference to Zambia's ability to benefit from mineral resources that are largely depleting.

The 2019 budget also proposed a shift from Value Added Tax (VAT) to Sales Tax. The sales tax proposal was devised to deal with the challenge of VAT refunds that had accrued to mining and exporting firms. VAT refunds had been contentious and government noted that it had been failing to meet the obligation on these payments. The pending VAT refunds had reached approximately K1.4 billion per month by the time of the sales tax pronouncements. The argument for stalling VAT refunds was that refunds imposed an unsustainable drain on public coffers and that they comprised the most daunting public treasury management challenge. Government argued that maintaining VAT refunds was difficult because the system was prone to fraud, constraining retained mineral revenue benefits to the national economy. The government alleged that mining companies inflated the cost of goods and services and made double claims on one receipt. Thus, an essential solution was to retain some mineral revenue benefits through the proposed introduction of the sales tax. Furthermore, VAT refunds were noted to mostly accrue to the mines and exporting firms since the neutrality principal in tax entailed that taxes would be charged where they are consumed. The introduction of the sales tax meant that VAT refunds would be eliminated and production was to be taxed along the value chain rather than only at consumption. The input sales tax incurred at the purchase of inputs was no longer going to be refunded with these changes.

The sales tax was set at 9%. It was however resisted by the mining companies. The mining companies felt that it was too high and envisaged an increase in production costs and a reduction in reinvestment. The mining companies argued that the sales tax would only increase the costs of production in the extractive industry and reduce the export competitive edge of affected firms. Consequently, the mines retaliated with threats of job losses. First Quantum announced its decision to reduce its workforce by 1,250 at both its Kansanshi and Sentinel mines, on December 21, 2019 (*Zambia Daily Mail,* 2019). Similarly, Konkola Copper Mines planned to suspend operations at its Nchanga Mine which would have culminated into loss of jobs. Mopani Copper Mines planned to suspend operations at Mindolo North and Central shaft in Kitwe which would have resulted in downsizing its workforce by 600. An additional 1,500 miners employed by contractors stood to lose their jobs if the plan was implemented. The Zambia Chamber of Mines estimated over 21,000 job losses as a result of the tax reform. This projected impact was described as both a looming human tragedy and an economic catastrophe for Zambia. The implementation of the new sales tax was postponed several times. Initially, the implementation was scheduled for 1 April 2019. It was later moved to 1 July 2019 and then deferred to 1 September 2019. This continued postponement confirmed that the sales tax proposal would be problematic to implement and required further discussion. Later, Zambia announced that it would retain value-added tax but strengthen its administration and make changes to the tax environment for mining companies in the 2020 Budget, released on 27 September 2019. The Finance Minister, Bwalya Ng'andu, said the government had decided to drop its plans to replace VAT with a sales tax, as announced in the 2019 Budget, following consultations with stakeholders (GRZ - National Budget, 2020).

The litany of changes outlined in this paper show that Zambia lacks national consensus and strategy on how to extract benefits from mining. Changes to the mining tax regime are expected each time there is a change in government. This makes the tax policy environment unstable and unattractive to would be investors.

7.0 Conclusion

This paper discussed Zambia's practice of resource nationalism focusing on the country's changing mining taxation regimes. The paper illustrated how mineral governance has changed in periods prior to the 1990s and after, following the country's transition from one party to a multi-party state. Prior to the 1990s, state owned mines falling under ZCCM proved to be loss making even though they delivered social and economic benefits to communities on the Copperbelt and Zambia in general. As loss makers, they became the crown jewels of privatisation. Zambia's copper mines were privatised through the Mining and Minerals Act of 1995 which embraced development agreements that offered concessionary terms to investors in form of low taxation rates, tax exemptions and deductions. The development agreements, which were kept confidential, favoured the mines for almost 20 years. Political pressure from the opposition parties and civil society led President Levy Mwanawasa to revoke the development agreements by enacting the Mines and Minerals Development Act in 2008. The new Act presented more meaningful tax adjustments to enable the country benefit from mineral resource exploitation. The introduction of the Mines and Minerals Development Act No. 7 of 2008 introduced some changes to the mining tax regime in subsequent years. The changes were characterised by the introduction, retraction and amendments to trending taxes in the years that followed under the Sata and Lungu government administrations. To this day, taxation remains highly contested as a main tool for controlling mining resources.

There are many causes of natural resource nationalism in Zambia. Among them are firstly, external market forces for Zambia's copper which have seen long-term declining trends in commodity prices relative to the prices of manufactured goods. With a weak manufacturing and industrial base Zambia often suffered greatly from international commodity price shocks. This brings about dissatisfaction among Zambians as it results in loss of benefits from the mining sector. Secondly, over the years, short-term volatility of copper prices have not helped Zambia's development model which is based on revenues from mining. This is because volatility of copper prices and associated revenues contribute to uncertainty for mining investors leading to lower investment levels than would ordinarily be the case if international prices were more stable. Thirdly, the political economy of natural resources and need for political hegemony may explain the different contestations around resource nationalism in Zambia. Poor economic performance has often been attributed to low revenue generation from mining, and also to how ruling governments have managed windfall revenues from mineral production.

Zambia's mining taxation regime, intended as a tool for retaining benefits within the country from mining, has been plagued by indecisive policies arising from factors related to mineral dependence. Dependence on the copper sector is linked to international trade and this directly affects the performance of the national economy. Since independence, copper exports have dominated Zambian exports to the global markets. Copper prices are however prone to fluctuations which negatively affect the country's foreign exchange receipts during global recessions. In order to sustain the export of copper and ensure high retained benefits, successive governments have attempted to alter the mineral taxation policies in response to changing prices of copper on the global markets. There are other issues related to this. For instance, mining towns have historically been known to provide employment, amenities and even business to their inhabitants. Mining has directly benefited local people as a source of income through direct employment by the mines or employment through a service chain linked to the mines. During recessions copper mining companies shut down full scale operations, which leads to cuts in the labour force and the services required at mining sites, thus impoverishing individuals and households. Such developments negatively affect the economic, social and political stability of the country. In Zambia, with elections being regularly held every five years, governments often attempt to retain their popularity in mining towns by introducing tax regimes that favour retention of benefits such as employment, education and infrastructure development. This contributes to the regular changes in mining taxation in Zambia.

Finally, Zambia's mineral dependence and oscillating mining taxation policies may be attributed to how the government collects and uses mineral revenues. The government would ideally use mineral revenues to finance infrastructure development especially roads, hospitals, and schools. However, with the copper mines in private ownership, the mineral proceeds that government receives are considered inadequate. The mineral revenue sharing mechanism is not straight forward. The structural power of mining capital has, through the development agreements dictated terms that favour mining investors. Thus, governments have on occasion attempted to retain the ownership of the mines through nationalisation and thus to extract more financial gains from mineral production. Mineral policy changes are not only intended to spread national gains from mining, but also to offer hopes of continued political popularity and dominance for the ruling party.

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