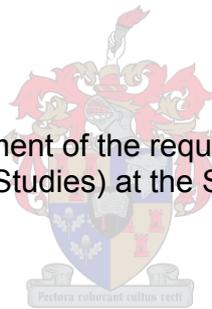


The Global Political Economy of Mining in Selected African States

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of Arts (International Studies) at the Stellenbosch University



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Declaration

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Abstract

Many African countries present the observer with a paradox: though richly endowed with mineral wealth, these countries are among the least-developed in the world. Mineral resources have historically been an important source of revenue for the state and one finds great diversity in the strategies that states have employed to access this wealth. These strategies range from direct participation in mining activity by means of state-owned companies to more indirect methods such as taxes levied on mining activity, with approaches varying not only among states, but also over time as historically certain strategies with regard to state involvement in mining have come to predominate.

This study develops a typology of public/private sector configurations in the mining sector. The typology consists of three models, a direct participation, market-led and sustainability model. This typology serves as an analytical tool to investigate the impact of mining codes on sustainable development.

The study concludes that in many cases the investment-oriented mining code reform undertaken by African states in the 1980s and 1990s has had a negative impact through the social and environmental costs associated with mining. Increasing recognition of these costs has resulted in the emergence of a sustainability model.

Opsomming

Baie Afrika lande vertoon 'n paradoks: al is dié lande ryk in minerale, is hulle ook van die armste lande ter wêreld. Minerale rykdom was histories 'n belangrike bron van inkomste vir die staat en daar is groot diversiteit in die strategië wat deur lande gebryk word om dié rykdom te bekom. Hierdie strategië wissel van direkte betrokkenheid in die mynbedryf tot meer indirekte metodes, byvoorbeeld deur die heffing van belasting op mynaktiwiteite, met metodes wat wissel nie net tussen lande nie, maar ook oor tyd deurdat sekere strategië oor spesifieke historiese tydperke gedomineer het.

Hierdie studie ontwikkel 'n tipologie van publieke/privaat sector konfigurasies in die mynbedryf. Die tipologie bestaan uit drie modelle, 'n direkte betrokkenheid, 'n mark-gedrewe, en 'n volhoubaarheids model. Hierdie tipologie dien as 'n analitiese hulpmiddel om die impak van myn kodes op volhoubare ontwikkeling te ondersoek.

Die studie kom tot die gevolgtrekking dat die herforming van mynkodes om investering te lok wat deur Afrika state gevolg was in die 1980s and 1990s het in baie gevalle 'n negatiewe impak gehad deur die sosiale en omgewings kostes verbonde aan mynaktiwiteite. Toenemende erkenning van dié kostes het daartoe gely dat 'n volhoubaarheids model besig is om te ontwikkel.

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Contents	Page
Chapter 1 – Introduction	1
1.1. Introductory Remarks: The role of the state in mining activities	1
1.2. Problem Statement	3
1.3. Scope and Methodology	4
1.4. Theoretical Framework	6
1.5. Chapter Outline	9
Chapter 2 – Actors in the mining industry	13
2.1. Introduction	13
2.2. Mining Companies	14
2.3. Shareholders and Financial Institutions	18
2.4. Governments and Inter-governmental Institutions	20
2.5. Civil Society, NGOs and Communities	24
2.6. Conclusion	27
Chapter 3 – The Influence of Development- and Macroeconomic Theory	29
3.1. Introduction	29
3.2. What is ‘development’?	29
3.3. Development- and macroeconomic theory	32
3.4. Conclusion	38
Chapter 4 – The African State	40
4.1. Introduction	40
4.2. An empirical snapshot	41
4.3. State formation	46
4.4. Weak-, predatory- and collapsed states	48
4.5. Conclusion	50

Chapter 5 – Three Models of Public/Private Sector Configurations in the Mining Sector	52
5.1. Introduction	52
5.2. The direct participation model	53
5.3. The market-led model	59
5.4. The sustainability model	62
5.5. Conclusion	68
Chapter 6 – Case studies	69
6.1. Introduction	69
6.2. Zambia	69
6.3. Ghana	76
6.4. Botswana	83
6.5. Conclusion	89
Chapter 7 – Conclusion	90
7.1. Summary of Findings	90
7.2. Prospects for Further Research	94
Bibliography	95

List of Figures and Tables	Page
Figure 1: Structure of the mining industry – company size	15
Figure 2: Concentration in the mining industry for selected minerals	15
Table 1: Inter-governmental Initiatives Relevant to the Minerals Sector	23
Figure 3: Comparative per Capita Income Growth Paths: Sub-Saharan Africa and Other Regions	41
Table 2: Economic Indicators by Region, 1970-1997	42
Figure 4: Africa’s Share in World Exports by Product, 1970-1993	44
Table 3: Political-economic change in selected African countries, 1960-2005	45
Figure 5: London Metals Exchange Copper Prices, 1964-1981	71
Figure 6: Gold Production in Ghana, 1980-2000	78
Figure 7: Botswana: Mining Share of GDP, 1980/81–2003/04	84

Introduction

1.1. Introductory remarks: The role of the state in mining activities

Many African countries present the observer with a paradox: though richly endowed with mineral wealth, these countries are among the least-developed in the world. How has it happened that many African countries have gained so little benefit from such valuable and abundant mineral resources? How have states endeavoured, with varying and often limited success, to translate mineral wealth into socio-economic benefits for their citizens? These are some of the preliminary questions that motivated this study.

Mineral resources have historically been an important source of revenue for the state and one finds great diversity in the strategies that states have employed to access this wealth. These strategies range from direct participation in mining activity by means of state-owned companies to more indirect methods such as taxes levied on mining activity, with approaches varying not only among states, but also over time as historically certain strategies with regard to state involvement in mining have come to predominate. Thus we find that direct state participation in mining predominated in the first half of the 20th century, and in the latter half a private sector-led approach, with the state gaining resources through taxes on mining activity, gained ascendancy.

The diversity of policy prescriptions regarding the appropriate role for the state in accessing mineral wealth can be ascribed in part to the variety of stakeholders involved in the mining industry. Governments, international financial institutions, mining companies, development-oriented and environmental non-governmental

organizations, local communities - all have a stake in mining activity, and the orientation of each is determined by divergent interests. Many of the arguments for particular strategies are based on economic theory or detailed econometric analysis of efficiency and value, and one may well contend that the question of the appropriate role for the state in the exploitation of minerals is a purely economic, rather than a political, enquiry. A deeper understanding of the meaning of politics, however, clearly demonstrates the political nature of this subject.

Adrian Leftwich provides an illuminating definition of politics, as “all the activities of conflict, cooperation and negotiation involved in the use, production and distribution of resources, whether material or ideal, whether at local, national or international levels, or whether in the private or public domains” (Leftwich, 2000: 5). This broad conception of politics illustrates that the determination of mining policy through the interaction of various role-players, with disparate power and interests, is fundamentally a political process. The state plays a unique role in the determination of mining policy in that it ultimately sets mining policy. The form that such policies take is, however, not determined solely by the state. Numerous stakeholders all seek to use power (whether persuasive power based on economic or ethical arguments, or more overt forms of power) to shape mining policies in accordance with their interests.

In addition to balancing the interests of various stakeholders in the mining industry, the state itself seeks to employ policy measures to pursue its interests. Among the various interests that guide state action it is the pursuit of economic and social development that is of particular importance for this study. A number of qualifications must immediately be stated. By focusing on the state’s interest in pursuing the economic and social development of its citizenry, it is not assumed that these are the only, or even consistently the predominate goals of state action. Furthermore, it is recognized that the rhetoric of economic and social development does not always translate into sincere and effective efforts on

the part of the state. The literature on “failed” and “predatory” states in developing regions bears testimony to the many cases in which state-elites have pursued goals inimical to the social and economic development of a country’s citizenry.

Finally, it is important to emphasize that the pursuit of economic development and the pursuit of social development are not intrinsically linked. Rapid economic development may indeed take place with relatively few benefits “trickling down” to the broader society. Furthermore, economic development may not be accompanied by an increase in the respect for human rights or an improvement in the quality of public service delivery to the general population. The focus of this study is thus not to investigate specifically how mining may contribute to gross domestic product growth, but rather its impact on the broader process of sustainable development.

1.2 Problem statement

The exploitation of mineral resources is governed by national policy frameworks that have exhibited marked variety both among states and over time. These policies assign particular roles for states, private companies, and other actors in the mining industry. Through establishing a policy framework in which various actors participate, states have a particular influence on the degree to which mining activity contributes to socio-economic development. This study seeks to explore the changing relationship between the state and the private sector in the mining industry and, in particular, ask what implications these institutional arrangements have had for socio-economic development. It is anticipated that the processes associated with globalisation, as well as increasing sensitivity to social and environmental costs associated with mining activity will shape current debate on the appropriate role for the state in the mining industry.

1.3 Scope and Methodology

The preceding section outlined the double nature of this enquiry, that is, investigating the changing relationship between the state and the private sector in the mining industry, as well as asking what implications these configurations of the public and private domain have had for sustainable development. The ways in which the state and the private sector are structured in the mining industry will be discussed through developing a typology consisting of three models: the direct participation, market-led, and sustainability models. These models are abstractions of a complex reality, and each model encompasses a variety of forms within national economies; nevertheless, this framework allows for a structured investigation of the ways in which the state and actors in the private sector have interacted, and how this interaction has contributed to sustainable development.

The methodological approach is exploratory/descriptive. Bless and Higson-Smith (1995: 42) note that “the purpose of exploratory research is to gain insight into a situation, phenomenon, community or person. The need for such a study could arise out of a lack of basic information on a new area of interest”. There has been relatively little research done on the historical development of mining codes in Africa from a political economy perspective, particularly relating to more recent developments regarding the concept of sustainable mining. This study therefore seeks to present information on mining regulation in a descriptively innovative manner.

Case studies are used to illustrate the typology developed in chapter five of the study. The unit of analysis is individual African states. Case studies are a useful tool to investigate relatively complex phenomena. Merriman (1988:13) emphasises the heuristic element of this approach when he writes that “case studies illuminate the reader’s understanding of the phenomenon under study. They can bring about the discovery of new meaning, extend the reader’s

experience, or confirm what is known”. Merriman goes on to specify that a typology, such as that employed in this study, may be “inductively derived” where “we start with a question and then examine cases in the light of the question” (Merriman, 1998:14). Merriman’s description reflects the process followed in this study.

Although the issues discussed are relevant in all countries with a significant mining industry, and especially developing countries, the scope of this study is restricted to African states. Africa is particularly rich in mineral resources, possessing 30per cent of the world’s mineral reserves, including 60per cent of its cobalt, 70per cent of its platinum, 35per cent of gold, as well as strategic minerals such as colombite-tantalum (Hilson, 2004: 56). At the same time, African economies have shown low growth levels and low levels of economic diversification relative to the rest of the world, which has meant that mining often contributes a highly significant share to the gross domestic product of African countries. Given the mineral wealth of many African states and the relatively poor progress that has been made in terms of sustainable development, an investigation into the link between mining activity and sustainable development is particularly relevant for African states.

The scope of the study does not include the issue of “resource wars”. While the impact of mineral resources on conflict in African states is an important issue deserving detailed analysis, this study concerns itself with the manner in which state-promulgated mining codes establish the policy framework in which mineral wealth is exploited and distributed. Resource wars differ from the subject of this study in that the exploitation of mineral wealth in such scenarios does not take place within an explicit policy framework, and further is not employed to pursue sustainable development.

The selection of case studies was determined firstly through the focus on African states. Three case studies were selected in order to provide a balance between

detailed description of particular cases and the use of a number of cases to illustrate the applicability of the typology. Two of the case studies, Zambia and Ghana, follow the historical development of the typology closely. Botswana has been selected as a case study due to the fact that it does not follow the standard pattern seen in many African states. Moreover, Botswana has been relatively successful in translating its mineral wealth into socio-economic benefits for the country's citizenry, which also sets it apart from many other African states.

In addition to academic literature, reports from various institutions are an important source of information. The World Bank Extractive Industries Review (2002) and United Nations Conference on Trade and Development (UNCTAD) reports dealing with sustainability in the mining industry are particularly relevant. The final report of the Mining, Minerals and Sustainable Development project, published by the International Institute for Environment and Development in 2000, was a key source of information on the structure of the mining industry and recent developments regarding the concept of "sustainable mining".

1.4 Theoretical Framework

This investigation is situated in a wider debate on configurations of the public and private domain, particularly in the context of globalisation. Globalisation has been described as a "shift in power from nation-states to increasingly mobile types of capital and international financial institutions and organisations. This shift...also involves major technological changes that have dramatically altered production processes and increased the speed and scope with which information and ideas, as well as capital, move around the world" (Berger, 2001: 890). While it is generally conceded that economic and technological changes have required the state to adapt in certain ways, the extent to which the state has lost power is widely debated.

Philip Cerny (1997: 252-253) suggests that one considers globalisation on three primary levels, namely economic, sociological and political. The first group of processes are essentially *economic*: the interpenetration of national markets for various goods and assets, the advent of new technology which is “structurally amorphous and rapidly diffused”, and the development of private and public economic institutions, encompassing multinational enterprises and private and public regulatory regimes. A *sociological* perspective emphasises cultural globalisation, in which “people’s perceptions of themselves as citizens of a particular nation-state are undermined by the crystallization and dissemination of global images and identities” (Cerny, 1997:253). Finally, globalisation may be seen as a *political* phenomenon in which politics “derives from a complex congeries of multilevel games played on multilayered institutional playing fields, above and across, as well as within, state boundaries” (Cerny, 1997:253).

Various theoretical frameworks and concepts have been developed to describe the changing nature of the state within a globalising system. While some authors argue that globalisation is forcing the state into retreat (Berger, 2001: 890) the current investigation is informed by more nuanced investigations of how the state adapts itself to the exigencies of globalisation. Philip Cerny (1997: 259-260), for example, developed the concept of the “competition state”, which proactively adapts to the increasing influence of market forces by attempting to enhance the efficiency and competitiveness of the national economy. While Cerny describes the competition state as developing out of and supplanting the Western welfare state, and thus does not reflect the historic reality of African states, the emphasis on proactive adaptation to global forces, competitive pressures, and state efforts to link with international financial and foreign direct investment flows is highly relevant to the experience of African states.

The ideas developed by Cerny are echoed in Shalini Randeria’s (2007:6-7) concept of the “cunning state”. According to Randeria globalisation has meant that state sovereignty is “externally constrained and internally contested”, but she

emphasises that within these limits there is still significant space for setting national agendas. Cunning states utilize these opportunities to “negotiate the terms on which they share sovereignty in certain fields of policy-making while retaining control over others” (Randeria, 2007: 7).

O’mano Emma Edigheji (1999: 114) argues that, rather than becoming irrelevant in the face of globalisation, the state remains “a strategic nexus within which global economic activities take place”. The state is seen as playing a facilitative role by mediating between the need for capital accumulation and redistribution as well as facilitating economic globalisation. Edigheji introduces Richard Gordon’s (1995) concept of a “democratic facilitative state” to further her argument. The democratic facilitative state does not concern itself only with economic deregulation and privatization, but instead “consciously and strategically shapes, guides and co-ordinates the market, [while at the same time addressing] questions of accumulation, equity, democracy, and new ownership structure”. The democratic facilitative state encourages and participates in a collaborative alliance of state-business-civil society. “Such partnerships become arenas where trade-offs are made between capital accumulation and distribution of wealth, as well as other social needs” (Edigheji, 1999: 115).

The description of the state as “competitive”, “cunning”, or “democratic facilitative” present a picture of the state as a proactive agent dynamically adapting to the forces of globalisation. While it is not denied that in certain arenas the power and sovereignty of the state is being challenged, the “decline of the state” hypothesis is not accepted as accurately reflecting the reality of state action. These concepts provide the theoretical framework for a discussion of various public/private domain configurations with regards to the mining industry.

The investigation of how these configurations of the public and private domain in the mining industry have impacted on sustainable development is informed by the work of Adrian Leftwich (2000), who argues persuasively that politics are of

primary importance in processes of development. Economic development is not viewed as an automatic process, but rather requires a central 'coordinating intelligence' which can "steer, push, cajole, persuade, entice, coordinate and at times instruct the wide range of economic agents and their groupings to go this way or that, to do this and not that, and which itself can act where or when private agents either cannot or will not" (Leftwich, 2000: 7). This 'central coordinating intelligence' is represented by the state. As to the political nature of development, Leftwich goes on to argue that "the process of development in human societies always involve the organization, mobilization, combination, use and distribution of resources *in new ways*, whether these resources take the form of capital, land, human beings or their combination. And because resources are to be used and distributed in new ways, there will inevitably be disputes amongst individuals and groups about how such resources are to be used as they calculate who will win and who will lose as a result of different configurations....all 'development' is therefore inescapably political" (Leftwich, 2000: 5).

1.5 Chapter outline

The present introductory chapter is followed by three chapters that provide the context for the discussion of the models of public/private configurations presented in chapter five. Chapter two provides an overview of the actors in the mining industry. This chapter is particularly important as it serves to emphasise that the impact of mining on sustainable development, albeit positive or negative, is the outcome of complex interaction among a number of actors. Analysis of the impact of mining on development may at times fall into the trap of oversimplification by focusing only on the most visible actors, such as the state, local communities and large multinational mining corporations. An overview of relevant actors as presented in chapter two serves to lay the basis for a more nuanced understanding of the interplay of actors involved in the mining industry, their particular interests, and the forces that influence the way in which they

impact on the mining industry. This is especially important as the process of globalisation has led not only to an increase in the number of actors that influence the mining industry, but also contributed to changes in the roles of traditional actors such as states and multinational mining companies.

Chapter three considers the influence of development and macroeconomic theory on the policy environment which governs mineral extraction. Two processes of change are of central concern in this chapter, firstly the change in understanding of development as a socio-economic process, and secondly evolving theories as to how development is to be achieved. With regards to conceptions of development, the most important change has been the broadening of the concept of development. Rather than narrowly equating development with gross domestic product growth, the concept of sustainable development now includes issues such as the equitable distribution of wealth, access to basic services, environmental degradation and other issues. Sustainable development also focuses on the well-being of future generations, emphasising that improvement in the living conditions of the current generations should not be at the expense of future generations.

The chapter continues by discussing various development and macroeconomic theories that have influenced the discourse on development, focusing in particular on the role envisioned for the state in fostering development. These theories have underpinned the actions of state officials, development agencies, multilateral financial institutions, and other actors in the mining industry, and have in this way had significant material consequences in terms of the contribution of mining to socio-economic development.

Chapter four focuses on the state in Africa. The process of state formation in Africa has had considerable economic and political implications for African societies. Without this investigation into the reality of African states any discussion of the appropriate role of the state vis-à-vis the private sector in the

mining industry risks becoming an abstract exercise of little relevance to the arena of policy-making. A number of labels have been developed to describe the reality of African states; states have been classified as *inter alia* “weak” (Migdal, 1988), “neo-patrimonial” (Bratton and Van de Walle, 1997), or “predatory” (Evans, 1995). This chapter will discuss some of these concepts as tools to understand the political and economic realities of African states.

Chapter five discusses three dominant models of public/private configurations with regards to the mining industry, that is, the direct participation, market-led and sustainability models. The direct participation model, as the name suggests, looks at ways in which the state may be directly involved in the mining industry as a producer. This model may be further subdivided into two primary forms: state-controlled companies and public-private partnerships. While public-private partnerships are still fairly common, the prevalence of state-controlled mining companies has declined considerably during the 1980s and 1990s. There are arguments which attempt to show that public enterprises are inherently less efficient than private enterprises, and thereby explain the decline of direct state participation in mining activities. It may also be argued, however, that the widespread privatization of public mining enterprises during the 1980s and 1990s resulted not so much from the level of productivity of public enterprises, but was rather the result of conditionalities imposed on African states by multilateral financial institutions in order for these states to qualify for aid, primarily through the mechanism of structural adjustment programmes.

The chapter continues with a discussion of the emergence of a “sustainability model” in public/private domain configurations with regards to mining. A review of current literature seems to suggest that the strongly market-led model of the 1980s and 1990s is being challenged as states, multilateral institutions and certain mining companies respond to increasing concerns about the social and environmental costs of mining, and the perceived weak link between mining activity and sustainable development. Two key documents that have been

influential in this debate are the report of the Mining, Minerals and Sustainable Development project entitled “Breaking New Ground – Mining, Minerals, and Sustainable Development” (2002), and the final report of the World Bank Extractive Industries Review entitled “Striking a Better Balance – The World Bank Group and Extractive Industries” (2003). By interrogating these documents as well as academic research this study will trace the development of a “sustainability model” in the mining industry.

Chapter six provides an analysis of the development of public/private domain configurations in three African states. Ghana, Zambia and Botswana have been selected as case studies due to the importance of mining to these economies. Ghana and Zambia clearly illustrate a historical development from a direct participation model in the immediate post-colonial period, to a market-led model during the 1980s and 1990s, and more recently a slow move towards integrating sustainability principles. Botswana is investigated as a case study in part because it is an exception to the trends of mining regulation on the African continent. Botswana has managed to establish an effective combination of the direct participation and market-led model, while also incorporating principles of sustainability through high levels of investment in social-development programmes and infrastructure. The case study will show, however, that even in Botswana challenges remain in the establishment of the sustainability model.

Chapter seven presents the key findings of the study and outlines prospects for further research.

Actors in the Mining Industry

2.1 Introduction

It has been argued that “if the issue of lasting and sustainable economic development is to be addressed, it implies taking into account not only the role of the private sector and specific companies, but as well the role which bilateral and multilateral financial institutions and the countries of origin of the companies present play in shaping the investment environment and the norms which regulate it” (Campbell, 2003: 3); one may also add local communities, non-governmental organisations and consumers to the list of actors that influence, and are influenced by, mining activity. This chapter will argue that the private sector mining industry itself should not be viewed as a monolithic structure – large multinationals, junior companies and traders all play unique roles in the mining industry and present particular challenges and opportunities regarding the impact of mining on sustainable development.

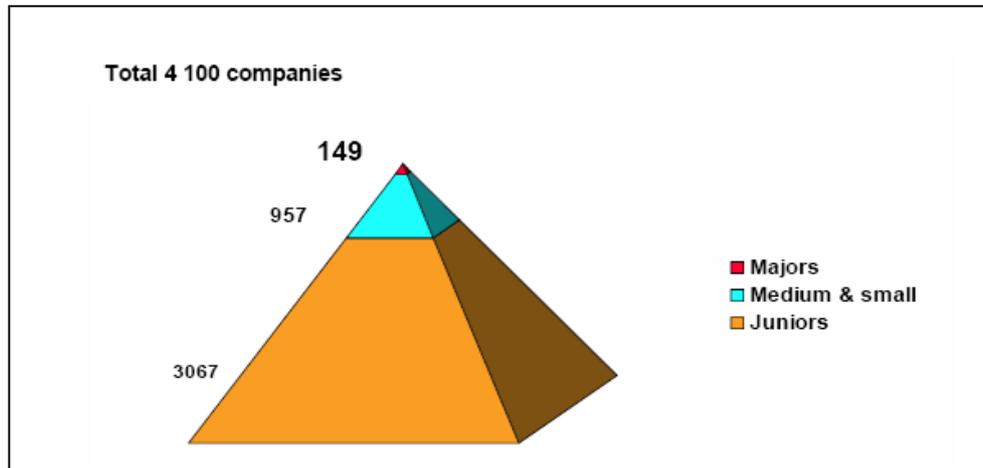
As ideas about the appropriate role of the state in the mining industry evolve, so too the roles of various actors and institutions are redefined. In recent years the mining industry has become increasingly complex as the roles of certain actors, such as international financial institutions and non-governmental organisations, have become more pronounced, while the roles of traditional actors such as states and large multinationals have also undergone change. This chapter will discuss four categories of actors in the mining industry, namely mining companies; shareholders and financial institutions; governments and inter-governmental institutions; and civil society.

2.2 Mining companies

Large multinationals such as BHP Billiton, Anglo American and Rio Tinto are perhaps the most visible actors involved in the mining industry. These mining multinationals are some of the largest companies in the world, operating in various aspects of the mining industry such as exploration, production, processing and sales on a global scale. There are relatively few companies that form part of this category, given the large capital investment required for such companies as well as the trend towards concentration of the industry through mergers and acquisitions (International Institute for Environment and Development, 2002: 61). The trend towards concentration in the industry, as well as the scale of the companies involved, is illustrated by the \$147 billion bid made by BHP Billiton for Rio Tinto in February 2008. These two companies are the second-largest and third-largest producers of iron-ore and their merger, which has provoked widespread criticism and has not yet been finalised, would provide the merged entity with up to 37 per cent share of the global seaborne iron-ore market (Mathews, 2008:1).

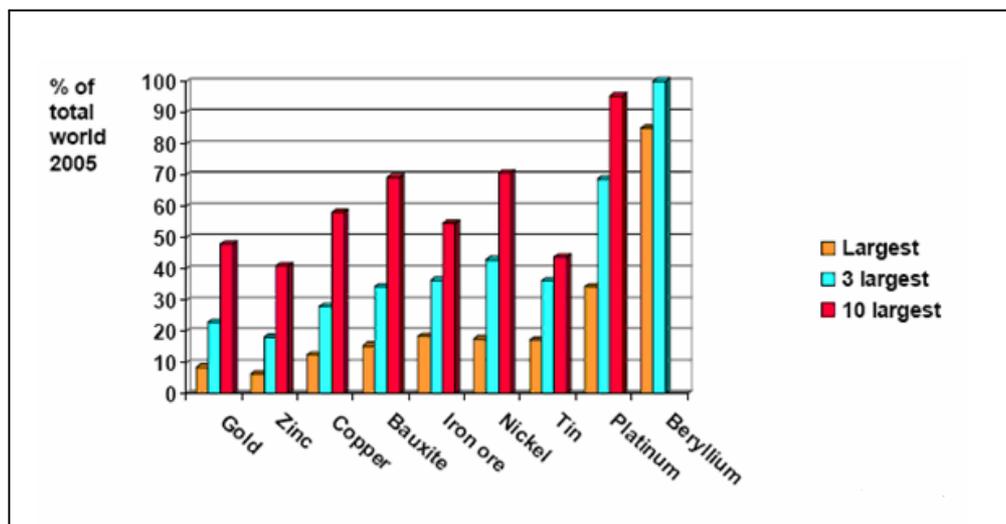
The graphs below illustrate the structure of the mining industry. The first graph shows the number of mining companies in the three size categories of major, medium & small, and juniors. It is clear that there are relatively few major mining companies relative to the other categories. The second graph, however, shows that there is a high level of concentration in the mining industry for most minerals. For example, only three firms account for almost 70 per cent of global platinum production.

Figure 1: Structure of the mining industry – company size



Source: Brett, 2006: 6

Figure 2: Concentration in the mining industry for selected minerals



Source: Brett, 2006: 7

Multinational mining corporations invest large sums in the national economies in which they are active. The value of their investments in terms of tax revenue,

foreign exchange earnings, and employment creation for national economies makes these firms particularly powerful in negotiating favourable terms of investment. This power is expressed both as soft power, for example in the potential benefits of an investment and the threat of investment in an alternative country, and as structural power. Susan Strange defines structural power as “the power to shape and determine the structures of the global political economy within which states, their political institutions, their economic enterprises and...their scientists and other professional people have to operate” (Strange, 1998: 24-25). In other words, multinationals have the power to determine, or at least influence, the “rules of the game” which govern their activity in developing economies. Much of the criticism directed at large mining multinationals relates to this power to influence the structure of mining regulations in such a way that profit is maximized, possibly at the expense of environmental and developmental concerns.

Given the visibility of large multinational companies, they have been under particular pressure in recent years to behave in a socially responsible fashion. In response to these pressures, large multinational mining firms have increasingly adopted codes of good practice and instituted processes that take account of environmental and social concerns. Most of the world’s largest mining companies, for example, are members of the World Business Council for Sustainable Development, through which the Global Mining Initiative was established in 1999. The Global Mining Initiative was established to prepare the mining sector for the 2002 World Summit on Sustainable Development, and played an important part in the later establishment of the International Council on Mining and Minerals, an international organisation which seeks to “represent the world’s leading companies in the mining and metals industry and to advance their commitment to sustainable development” (International Council on Mining and Minerals, 2008: 1).

Large mining companies also cooperated with a recent study by the International Institute for Environment and Development which investigated ways to promote

sustainable minerals development. The former chairman of Rio Tinto explained the need for such initiatives in order to improve the perceptions of the industry: “if we allowed the widespread negative attitudes to our activities to go on, we would eventually have difficulty accessing resources in the ground and markets for our products” (cited in Environment News Service, 2002: 1). This sentiment also appears to motivate the increasing emphasis on corporate social responsibility (CSR) in company operations, a trend evident in the press statements, annual reports and websites of most mining companies. While many states and non-governmental organisations welcome these efforts, some maintain that multinational companies still have too much power to set the rules of the game on their terms, with moderate NGOs co-opted into these processes and more critical voices sidelined. Chapter six will provide a more detailed discussion of CSR practices as a facet of an emerging sustainability model in the mining industry.

In addition to large multinational mining companies there are also a number of intermediate and junior mining companies, as illustrated in the pyramid-shaped graph shown in figure 1. These companies typically operate a number of small- or medium sized mines, sometimes in a number of countries. For most locally and regionally traded minerals, particularly industrial minerals, these intermediate companies are more important than large multinationals.

Intermediate and junior companies present particular problems with regard to instituting socially responsible corporate practice. As these companies are less visible than the large multinational mining enterprises, there is less pressure on them to institute socially and environmentally responsible practices, while the perception also exists that issues around sustainable development in mining is a ‘big company game’ that has little relevance for intermediate and junior companies (MacDonald, 2002: 42). Given that these smaller firms are often focused on short term, speculative investments, and also that many of these smaller firms are undercapitalized and thus under intense pressure to be

successful, there is a real threat that their activities may have negative environmental and social repercussions (International Institute for Environment and Development, 2002: 63).

Smelters and fabricators are also important actors within the mining industry. The involvement of a network of trading patterns among mines, smelters and fabricators means that it is often very difficult to track metals from the mine to the customer. It is thus very difficult for companies or other actors to demonstrate that a metal has been mined, refined, and fabricated under conditions that meet sustainable development objectives (International Institute for Environment and Development, 2002: 64). This poses an obvious challenge for states, NGOs, and consumers who wish to support socially and environmentally responsible mining.

State-owned companies, while still significant in certain areas, form a decreasing share of total mining activity. Since the 1970s there has been a trend towards the privatization of state-owned mining companies. The process of structural adjustment which many African states underwent in order to access funding from multilateral financial institutions during the 1980s was particularly influential in the withdrawal of state participation in the mining sector. According to the United Nations Conference on Trade and Development “during this period [1980s], a deteriorating financial situation...forced many countries to reconsider the role of the State. State-owned enterprises, including in the mineral sector, have been privatised, inter alia to reduce the fiscal deficit” (UNCTAD,1995: 4 cited in Campbell, 2003: 4).

2.3. Shareholders and Financial Institutions

Equity financing through commercial banks is an important source of funding for mining activities. Commercial banks provide most financing to the minerals sector, while multilateral financial institutions such as the World Bank Group and regional development banks also provide a certain share of funding. Financial

institutions can have a significant impact on the contribution of mining to sustainable development by instituting environmental and social guidelines for their lending activities. The World Bank applies a detailed set of such guidelines, which have been appropriated by private lenders, export credit agencies, regional banks and other financial institutions. World Bank guidelines, for example, were the basis for a set of environmental and social guidelines adopted in 2003 by ten private financial institutions, which came to be known as the Equator Principles. Within three years of its establishment the Equator Principles had been adopted by forty financial institutions including banks, export credit agencies and development finance institutions; collectively these financial institutions control approximately 80 per cent of all project lending worldwide (Hardenbrook, 2007: 199).

There is a growing trend among fund managers and individual investors toward investing in companies that are well managed and also environmentally and socially accountable. In the United States the Social Investment Forum was established as an industry association to promote and research socially and environmentally responsible investing (SRI) practices. The Social Investment Forum's research shows that in 2007 \$2.71 trillion total assets was under management by investors using SRI principles in the United States financial sector, a figure representing 18 per cent growth in SRI investing since 2005. SRI is facilitated by investment indexes tracking SRI themes, for example, KLD Research & Analytics established a Global Sustainability Index in 2007, which "tracks top-ranked companies using environmental, social and governance selection criteria..." (Thomas Kuh, index manager at KLD Research & Analytics, cited in *Socially Responsible Investment Guide*, 2008:5). The practice and impact of SRI has thus increased significantly in recent years. Paul Hilton, the director of advanced equity research at Calvert, a major investment firm based in the United States, has noted that "key issues that SRI investors are often concerned about – such as corporate integrity, the environment and avoiding child labour – are becoming mainstream issues for many investors today" (cited

in Socially Responsible Investment Guide, 2008:4). With the increasing prevalence of SRI shareholders and fund managers will have a growing influence on corporate policy and behaviour.

2.4. Governments and intergovernmental institutions

Governments have a critical role to play in regulating the mining industry and creating conditions which allow for the exploitation of minerals. Good governance is an important factor for socially and environmentally responsible mining. Elements of importance includes the rule of law, effective state institutions, transparency, control of corruption, accountability in the management of public affairs, respect for human rights, and the participation of all citizens in decisions that affect their lives (International Institute for Environment and Development, 2002: 66). In recent years emphasis on the importance of good governance has increased significantly. While elements of good governance are undeniably important if mining activity is to contribute to sustainable development, it is also important to recognise that the discourse on good governance outlines a particular position for the state in mining activity, and the dominance of this discourse exercises a subtle power through limiting the apparent options for state participation in the mining industry. The 1992 World Bank report *Strategy for African Mining*, for example, specifies the need for “a clearly articulated mining sector policy that emphasizes the role of the private sector as *owner* and *operator* and of the government as *regulator* and *promoter*” (quoted in Campbell, 2003: 6).

While the contemporary trend has been towards a decreasing role for the state in the direct exploitation of minerals, the importance of the state in the mining industry should not therefore be seen to have diminished. The role of states in the mining industry has, however, changed. The emphasis in recent times has been on the role of the state in providing a stable policy environment with

effective institutions. The state also has specific functions such as the granting of licences and permits, reviewing environmental and social impact assessments, planning for regional and local development, upholding environmental, health and safety standards, and investing and distributing revenues from mineral production to build social and human capital (International Institute for Environment and Development, 2002: 66).

Any discussion of the role of states in mining, particularly as it impacts on sustainable development, must acknowledge that states may not always have the will or the capacity to fulfil the role described above. Lack of human and financial resources, corruption, and mismanagement are prevalent in many areas where minerals are mined. In this environment it is unlikely that the benefits of mineral exploitation will be enjoyed by the broader population. Problems may also arise in situations where the state is not viewed as legitimate by the communities where mining activity takes place. This is particularly problematic if local traditions and priorities are not integrated into national policies, or when national government develops policies that directly impact on local communities without sufficient engagement with these communities.

The same problems that may negatively impact on national governments' ability to translate mining activity into sustainable development benefits also affect lower levels of government. In many developing states these lower levels of government are poorly developed and may be particularly affected by inadequate resources and expertise, as well as problems around corruption and equitable distribution of resources.

The importance of democratic governance and public accountability has gained increasing prominence since the 1980s. This has resulted in a trend toward democratic reform at local level, with greater emphasis also being placed on the role of citizen groups and community organizations. It has also drawn attention to the need for political, legal, and institutional framework that guarantees

citizens civil and political rights and access to justice (International Institute for Environment and Development, 2002: 67).

On the international level there are a great number of inter-governmental or multilateral institutions that have been active in the areas of immediate relevance to security of investment, sovereign risk, and political risk assessment. The World Bank Group has been a significant player in the sector; it consists of the International Bank for Reconstruction and Development / International Development Association (IBRD/IDA), the International Finance Corporation (IFC), and the Multilateral Investment Guarantee Agency (MIGA), each of which plays a distinct and different role in the mining sector. IBRD/IDA provide lending and technical assistance to governments for mining sector development and reform as well as broader activities regarding environmental and social protection and overall macroeconomic management. The IFC provides loans and investment funds, while MIGA guarantees for specific private-sector mining operations (International Institute for Environment and Development, 2002: 67). The World Bank's involvement has not been without controversy, and has been the subject of a comprehensive review (Extractive Industries Review, 2003). The role of the World Bank and the International Monetary Fund will be discussed in more detail in chapter four and five.

Other inter-governmental institutions involved with the sector include the Organization for Economic Co-operation and Development, the UN regional economic commissions, the UN Environment Programme, the UN Conference on Trade and Development and The World Trade Organization. Each of these institutions has a specific role and varying capacities or resources to address issues related to the minerals sector. Many of these institutions are today providing and convening important forums for debates, and are playing an increasingly active role in the development of voluntary measures. The table below shows some of the main multilateral efforts which have been undertaken in

recent years in order to increase the accountability and social and environmental responsibility of multinational firms operating in developing economies.

Table 1: Inter-governmental Initiatives Relevant to the Minerals Sector	
Initiative	Description
<i>Global Compact</i>	Launched in 1999 by the Secretary-General of the UN, a commitment by a network of organizations from business, labour, and civil society to support a global set of principles for corporate social responsibility. Mechanisms for more specific sector-by-sector agreements are being explored.
<i>Global Reporting Initiative (GRI)</i>	Established in 1997 by the Coalition for Environmentally Responsible Economies (CERES) in partnership with UNEP to develop globally applicable guidelines through a multistakeholder process for reporting on economic, environmental, and social performance. The GRI is now developing specific guidelines for the mining sector
<i>ISO 14001</i>	ISO 14001 is an internationally recognized environmental management system standard developed by the International Organization for Standardization (ISO) in response to the 1992 Earth Summit. Approximately 30,000 companies in over 40 countries have received ISO 14001 certification and as many as 300,000 companies have based their environmental management system on the standard, without seeking certification.
<i>OECD Guidelines for Multinational Enterprises</i>	Adopted in 1976 with the objective of strengthening the basis of mutual confidence between enterprises and government authorities and promoting the economic, social, and environmental benefits for foreign direct investment and trade while minimizing the problems. A thorough review process was undertaken in 2000.

<i>OECD Principles of Corporate Governance</i>	Adopted in June 1999, the first multilateral effort to produce a common language of corporate governance. The principles are intended to assist both OECD and non-OECD governments to evaluate and improve their own framework for corporate governance and to provide guidance and suggestions for stock exchanges, investors, corporations, and other parties that have a role in developing good corporate governance.
<i>UNEP Declaration</i>	The UNEP Declaration is a voluntary commitment to adopt improved sustainable production practices involving the continuous application of an integrated preventative strategy applied to processes, products and services. In October 2000, the International Council on Metals and the Environment became a signatory to the UNEP Declaration. The Declaration is a set of high-level commitments that will need to be advanced with and through members of the International Council on Mining and Metals over time.

Source: International Institute for Environment and Development, 2002: 68

2.5. Civil society

Civil society is a broad concept which encompasses organisations that vary greatly in terms of size (local, national, international) and functions, including not-for-profit NGOs, community-based organizations (CBOs), faith-based organizations, and cooperatives. The media has also become an influential agent in distributing information on mining activities and generating pressure on companies to act in a more socially and environmentally responsible manner. In this discussion, 'civil society' excludes business firms.

By using international networks, media campaigns and information technologies such as the internet, civil society organisations have become increasingly

important actors in the mining industry through their ability to raise awareness of irresponsible mining practices. Margaret Keck and Kathryn Sikkink in their book *Activists Beyond Borders* describe how civil society organisations cooperate within transnational advocacy networks to create a “dense web of connections” that share information, values and services. These advocacy networks are then able to “generate attention to new issues and help set agendas when they provoke media attention, debates, hearings, and meetings” (Keck and Sikkink, 1998 cited in Taylor and Mokhawa, 2003: 265). As noted by Rio Tinto’s Chief Economist, David Humphreys, “everything a company now does it does in the public gaze” (Humphreys, 2000: 129).

The “No Dirty Gold” (NDG) campaign is a good example of how NGOs have used public pressure to influence the mining industry. The campaign was established in 2004 by Oxfam, Earthworks and twelve other activist groups in order to raise the gold mining sector’s standards of human rights and environmental responsibility. The campaign has focused on informing consumers about the social and environmental costs of gold mining and seeking their support in pressuring jewellery retailers to subscribe to the social and environmental standards established by the NDG, referred to as the NDG “Golden Rules” (Ali, 2006: 456). The NDG campaign ultimately resulted in the establishment of the Council for Responsible Jewellery Practices (CRJP) which counts among its members many of the world’s major jewellery retailers, a number of industry associations as well as mining companies and refining, manufacturing, trading and wholesale organizations. The goal of the CRJP is to “promote responsible practices relating to business ethics, social, human rights and environmental performance throughout the diamond and gold jewellery supply chain from mine to retail” (cited in Marlin, 2006: 58).

The global anti-conflict diamonds campaign is perhaps a better known example of how transnational activism has shaped the mining industry. This initiative originated with research conducted by the London-based non governmental

organisation Global Witness in 1996-1997. The research conducted by Global Witness on the role of diamond sales in financing conflict in developing countries such as Angola and Sierra Leone led to the establishment of an NGO coalition called Fatal Attractions to undertake a public awareness campaign about the diamond trade's lack of effort in ensuring that their industry was not funding war in Africa. World Vision, which is the largest privately funded international relief and development organisation in the United States, also ran an awareness campaign on conflict diamonds, while in May 2000 United States Congressional hearings were conducted on conflict diamonds. These and other efforts ultimately coalesced in the Kimberly Process, a series of inter-governmental meetings which endeavoured to find ways to stop the trade in conflict diamonds (Taylor and Mokhawa, 2003: 267).

The conflict diamond issue dominated the 2000 World Diamond Congress, a congress of industry players sponsored by the World Federation of Diamond Bourses and the International Diamond Manufacturers' Association. The congress produced a number of resolutions relating to measures aimed at eradicating the trade in conflict diamonds, including the establishment of a World Diamond Council to oversee control measures. The conflict diamond campaign reached a further milestone in 2001 when the United States House of Congress passed the Clean Diamonds Bill which proposed legislation banning the importation of conflict diamonds into the United States (Taylor and Mokhawa, 2003: 267-268). The "No Dirty Gold" campaign and the conflict diamonds campaign are just two examples of how the influence of civil society organisations is increasing in the mining industry.

In addition to organised civil society, the communities that live in and around mining operations are particularly important stakeholders. While mining activities do present certain opportunities, such as increased employment and benefits from transport infrastructure investments, the costs of mining operations are disproportionately experienced by the communities closest to the mines. These

costs include *inter alia* environmental damage, the break down of social structures, and the rise of social ills such as alcoholism and prostitution. Furthermore, in the absence of effective government structures and redistributive public policies, the benefits that mining revenues bring to the country may not be translated into tangible benefits for these local communities.

Consumers may in certain limited circumstances be a powerful force in shaping the behaviour of firms in the mining industry. The widespread consumer reaction against “blood diamonds”, i.e. diamonds that have been mined in conflict areas and sold for the purpose of acquiring weapons, is a good example. However, in most sectors the link between the mining company and the final consumer of the mineral product is complex and not easily traced. Despite the fact that the proceeds of gold and colombite-tantalum mining in conflict areas may be used to fuel these conflicts, for example, the complex transport and processing links that brings these products from producer to consumer makes it difficult for consumers to take action such as boycotting mineral products from a particular area. As the “No Dirty Gold” campaign has shown, however, even in the case where the link between the producer and consumer cannot be easily traced, effective campaigns by civil society organisations can have an impact on the industry.

2.6. Conclusion

The impact of mining on sustainable development, albeit positive or negative, is the outcome of complex interaction among a number of actors. Analysis of the impact of mining on development may at times fall into the trap of oversimplification by focusing only on the most visible actors, such as the state, local communities and large multinational mining corporations. The overview of relevant actors as presented in this chapter serves to lay the basis for a more nuanced understanding of the interplay of actors involved in the mining industry, their particular interests, and the forces that influence the way in which they impact on the mining industry. Of particular importance is how the various

processes of change incorporated under the term globalisation have impacted on the roles and power relationships between actors in the mining industry.

Chapter 3

The Influence of Development- and Macroeconomic Theory

3.1. Introduction

The central question of this study is how the state and markets have interacted in the mining industry, and what implications this has had for development. On a conceptual level it is important to recognize that the idea of development has changed over time and continues to evolve. These multiple ideas about development must be made explicit as “the way ‘development’ is defined and understood is crucial in shaping the strategic objectives and goals of development policies and practices, and in judging their results”(Leftwich, 2000:16). When states have enacted mining policies in the pursuit of developmental goals, their actions are informed by theoretical links between mining activity and socio-economic outcomes. To the extent that states have sought to use mining as a means to pursue development, the theoretical understanding of development has thus had significant material consequences for societies.

3.2. What is Development?

The idea of development has long been closely identified with measures of aggregate economic growth, such as the gross national product of a country. A country was seen to be developing to the extent that its economy was growing as measured through national accounts. The problem with this focus on economic variables was that it ignored, or at least underplayed, sociological and cultural aspects of development. Furthermore, because economic growth was measured

in aggregate variables such as gross national product, internal redistribution and the impact of growth on various social classes was not taken into account (O'Brien and Williams, 2004: 255).

This narrow conception of development predominated until the middle of the twentieth century. During the 1960s the view that development could be equated with aggregate national growth was increasingly challenged. Dudley Seers was influential in challenging the accepted conception of development, arguing that the nature of development is more multi-faceted than a restrictive growth model suggests. A particular concern for Seers was the distribution of wealth among citizens. Seers insisted that measures of equity, as well as social objectives such as employment, health, and shelter, should be included in one's understanding of development (O'Brien and Williams, 2004:255).

The insights provided by Seers and other authors helped shift the debate from purely economic measures of development to a concern with sustainable development. This shift was reflected in the 1990 Human Development Report, which stated that "while growth in national product (GDP) is absolutely necessary to meet all essential human objectives, what is more important is to study how this growth translates – or fails to translate – into human development in various societies" (UNDP, 1990: iii). In 1987 the World Commission on Environment and Development defined sustainable development as "development that meets the needs of the present without compromising the ability of future generations to meet their own needs" (World Bank, 2003:3).

There are four 'pillars' of sustainable development: improved social conditions, environmental protection, economic progress, and good governance. Thus, development is understood to entail "a sustainable increase in living standards that encompass material consumption, education, health and environmental protection", and in addition development in a broader sense is also understood to include "other important and related aspects.., notably more equality of

opportunity, and political freedom and civil liberties” (World Bank, 1991:31). In a similar vein, the United Nations Development Programme emphasises that the priorities of sustainable development must be poverty eradication, the creation of employment and sustainable livelihoods, the empowerment of women, and the protection and regeneration of the environment (Leftwich, 2000: 53).

The concept of development was further broadened through the work of Amartya Sen. Sen links the idea of development to certain freedoms, and indeed considers these freedoms as “constitutive components of development” (Sen, 1999: 36). Sen identifies five categories of freedoms:

- *Political freedoms*, which enable people to shape government and government policy and maintain accountability;
- *Economic facilities*, which constitute the opportunities for individuals to use resources for consumption, production or exchange;
- *Social opportunities*, which refer to the arrangements societies make for health care and education, for instance, which have substantive value in providing for more effective participation in political and economic life;
- *Transparency guarantees*, which are guarantees of social and public trust, which can limit corruption and graft; and
- *Protective security*, which is an instrumental freedom for development in that it provides an institutional social safety net which prevents people being reduced to abject poverty and starvation (Sen, 1999: 38-39).

Ideas about how development is to be conceived have clearly changed over time and continue to be debated; and just as ideas about what development means have evolved, so have various theories as to how development is to be achieved. The history of mining in Africa, and in particular the question of what role the state should play in extractive industries has in many respects mirrored the evolving ideas of development- and macroeconomic theory.

3.3. Development- and Macroeconomic Theory

In Africa during the immediate post-independence period the interventionist ideas of Keynesian economics were in ascendancy. The Great Depression had brought into question the work of equilibrium theorists such as W.S. Jevons, Alfred Marshall and Leon Walras, who argued that non-interference in the free market would spontaneously order society in such a fashion as to maximize human well-being (Preston, 1996:154). In seeking to respond to the economic and social stresses of the Great Depression, the *laissez-faire* conception of the economy prescribed by earlier economists was supplanted by a model that placed greater emphasis on the ability of the state to intervene and manage elements of a free market system.

Modernization theory provided further theoretical justification for a more interventionist state. At the heart of modernization was the idea that the structures and processes of all human societies develop from “simple forms of traditionalism to complex expressions of modernity” (Preston, 1996: 176). Societies tend to converge in their economic, social and political processes, with the United States of the 1960s generally viewed as the final stage of development. Walt Rostow was perhaps the most influential proponent of modernization theory, particularly through his work *The Stages of Economic Growth* (1960), in which he outlined five key phases in the economic, social, and political development of societies (Preston, 1996: 176). While modernization theory still put primary emphasis on the working of a free market, the manner in which it identified key phases of development and outlined the importance of key sectors within these phases provided the theoretical justification for industrial strategies that sought to place national economies on a growth path to a more advanced stage of development.

The new economic orthodoxy propounded a greater role for the state in managing the economy, but state intervention was even more strongly

emphasized through various critical voices in economic theory. Important in this regard were the Structuralist and Dependency schools that developed in Latin America. The basic argument of these schools of thought was that the global economic system relegated developing economies to a dependent position on the periphery of the global economy, with their economies structured in such a way to serve the interests of the developed centre. The relative lack of economic progress in developing economies was thus not the result primarily of deficiencies in these economies, but rather was understood to result from the debilitating structural circumstances of the economies of developing nations within the global system (Love, 2005: 101-103).

This structural analysis of the global economy justified an interventionist role for the state in guiding a strategy of industrialisation with the goal of overcoming its dependent position in the global political system. Modernization theory rationalised a more interventionist role for the state, albeit a relatively limited one; Structuralist and Dependency schools, however, saw the state as “the key vehicle of the new political-cultural project of autonomous development” (Preston, 1996: 195).

The policy implications of Institutional Development theorists were similar to those of the Structuralist and Dependency schools. Institutional Development theorists, exemplified in the writings of Gunnar Myrdal, rejected the idea of a self-regulating economic system, emphasising instead that development occurs within a complex social, political, economic and cultural environment. What was required was an analysis of the entire system, identifying those economic, political, social and cultural elements that constrained growth in the national economy. In order to break out of a low-level equilibrium of suboptimal growth, extensive state planning and interventionist policies was required (Kapp, 1976: 212-214; Balabkins, 2001: 189-190). In the work of Gunnar Myrdal “the business of social scientific analysis, the pursuit of development and the realm of political action all coincide in state ordered planning” (Preston, 1996: 201).

Marxism was influential on the African continent as a political ideology and through its influence on the structural analysis that underlay the Structuralist and Dependency schools. In certain states such as Angola and Egypt Marxist ideology was openly embraced, while in other cases (Tanzania under Julius Nyerere, Ghana under Kwame Nkrumah) Marxist concepts of class analysis were combined with “African socialism”, said to be modelled on traditional collectivist models of African society (Gereffi and Fonda, 1992: 419-422). The vision and sentiment of African socialism was eloquently expressed by Julius Nyerere, the former president of Tanzania:

"The objective of socialism in the United Republic of Tanzania is to build a society in which all members have equal rights and equal opportunities; in which all can live in peace with their neighbours without suffering or imposing injustice, being exploited, or exploiting; and in which all have a gradually increasing basic level of material welfare before any individual lives in luxury" (Nyerere 1968 cited in Ghai, 1976:35).

The 1970s marked a significant shift in the dominant economic discourse throughout the developed world. Neo-liberal theorists such as Milton Friedman and the political leadership of Ronald Reagan in the United States and Margaret Thatcher in the United Kingdom established free market capitalism as the new orthodoxy in development thinking. This pro-market orientation had a direct impact on development policy through the influence of international institutions such as the World Bank and the International Monetary Fund.

At the centre of neo-liberal thinking lays a belief in the beneficial outcomes of a free market system. The free market is conceived of as atomistic individuals with needs and wants and who make contracts with other individuals through the mechanism of the marketplace to satisfy those needs and wants. The market is “a neutral mechanism for transmitting information about needs and wants, and goods which might satisfy them, around the system” (Preston, 1996: 253). This

system envisions a minimum state which provides a basic legal and security structure to underpin the interactions of individuals in pursuit of their economic needs.

The key principles of neo-liberal thinking have been cogently summarised by Peter Preston (1996: 255) as follows: (a) any regulation of the market is to be avoided, save for crises and the removal of malfunctions or inhibitions to full functioning; (b) any intervention in the market is to be avoided, save to remove causes of price distortions, so subsidies should be abolished, tax rates adjusted to encourage enterprise, tariff barriers removed along with other non-tariff barriers or disguised restrictions; (c) any government role in the economy should be avoided, as private enterprise can usually do the job better, and when governments do become involved it should be both market-conforming, short-term and involve a minimum of regulations; (d) any collective intervention in the market should be avoided, so labour unions must be curbed; and (e) international trade should be free to trade with goods and currency freely traded.

The application of these principles to development policy came to be labelled the “Washington consensus”¹, a term originated by the economist John Williamson in 1989 in describing the policy advice of the major Washington-based financial institutions (the World Bank, International Monetary Fund, and to a lesser extent, the Inter-American Development Bank) (Srinivasan, 2000: 265).

The final shift in development thinking that will be addressed is the temperance of faith in the minimalist state, an increasing emphasis on the importance of governance, and a growing recognition of the importance of a relatively strong and efficient state to drive development. These shifts in thinking emerged in the

¹ Williamson’s ten prescriptions reflecting the interpretation of the Washington consensus in the early 1990s were: 1) fiscal discipline; 2) redirection of public expenditure; 3) tax reform; 4) financial liberalization; 5) adopting a single, competitive exchange rate; 6) trade liberalization; 7) eliminating barriers to foreign direct investment; 8) privatizing state-owned enterprises; 9) deregulating market entry and competition; 10) ensuring secure property rights (Williamson, 1990 cited in Naim, 2000: 527).

1990s as it became increasingly clear that the application of neo-liberal principles in developing economies was in many cases not delivering the expected beneficial results. The growing realisation that issues of governance are central to the development process was first expressed in a 1989 World Bank report, which stated that “underlying the litany of Africa’s development problems is a crisis of governance” (World Bank, 1989:2).

Governance quickly became a central issue in development thinking. These initial concerns focused predominantly on managerial and administrative issues, such as corruption and the efficiency of state bureaucracy, rather than directly addressing the role of the state or the politics of development (Leftwich, 2000: 111). What was envisioned was a “slim but efficient administrative state, detached from its prior pervasive involvement in economic matters; while such a state might undertake basic investment in, and management of, essential physical and social infrastructure, its central role was to encourage the free and fair play of market forces in an impartial, open and accountable matter” (Leftwich, 2000: 112).

The UNDP has identified a number of indicators of governance, which include civil liberties, political rights, press freedom, levels of violence and political stability, rule of law, government effectiveness, and perceptions of graft and corruption. In addition to these concepts, there are a number of “objective” indicators of governance, including political participation, the number and role of nongovernmental organisations, freedom of association and collective bargaining, and the ratification of international conventions on civil and political rights (Mills, 2002: 74).

While issues of corruption, efficient bureaucracy and civil liberties were receiving increasing attention, the positive growth record of a relatively small group of states during the 1980s and 1990s was leading scholars and development practitioners to rethink the role of the state in development. Between 1965 and

1997 many developing countries registered negative average annual rates of growth, while a few showed moderate levels of growth. A small group of developing countries, however, achieved relatively high levels of growth, in excess of 4per cent over that period. While many of these were Asian states (South Korea, Taiwan, Singapore, Indonesia, Thailand) there were also African states such as Botswana and Mauritius (World Bank, 1999: 15). Closer study of these countries revealed the central role that the state played in stimulating and directing economic development. The concept of the “developmental state” was developed to describe the characteristics of these countries; these are states “whose *politics* have concentrated sufficient power, autonomy, capacity and legitimacy at the centre to shape, pursue and encourage the achievement of explicit developmental objectives, whether by establishing and promoting the conditions of economic growth..., by organizing it directly..., or a varying combination of both” (Leftwich, 2000: 155). A crucial feature of the developmental state was the intimacy of its relationship with the private sector and the intensity of its involvement in the market. Another important feature was a relatively powerful and autonomous bureaucracy (Johnson, 1981: 9-10).

Perhaps the most important feature of developmental states is the strength and unity of vision of the state in pursuing developmental objectives. In many cases this unity resulted from a fundamentally undemocratic political system that did not allow for dissent; this model was present in many Asian developing countries such as Indonesia. However, all developmental states were certainly not authoritarian. Among developmental democratic states one can distinguish between dominant-party developmental democratic states, such as Botswana, and coalition developmental states, such as Mauritius (Leftwich, 2000: 176).

The politics of Botswana has been dominated since independence by the Botswana Democratic Party (BDP). The overwhelming political dominance of the BDP meant that there was relatively little serious contestation of the development agenda and political and economic ‘rules of the game’ established by the ruling

party. Mauritius represents a far more diverse and contested political arena, yet through coalition politics, the state was able to maintain high levels of growth. The ability of politically diverse and contested states to effectively pursue a development path seems to rest on two pillars: firstly, it requires a fundamental political and policy consensus about a national development strategy, and second, a respect for the constituents of its pluralist social structure (Leftwich, 2000: 181). Political consensus regarding a country's development path and relatively efficient state structures are thus considered an essential element in the economic development of countries. As expressed by Greg Mills (2002: 79) "the state may today not be the only problem-solving unit in global politics, and may in some areas of the world be the problem to *be* solved....But a strong state is necessary for social and economic effectiveness".

3.4. Conclusion

The way 'development' is defined and understood is crucial in shaping the strategic objectives and goals of development policies and practices, and in judging their results (Leftwich, 2000:16). For example, due to the exploitation of petroleum and gas reserves, Angola's GDP has grown by an average of more than 12 per cent in the last six years. Is this a shining example of development? What if one considers that 95 per cent of the population live on less than one US dollar per day, or that nearly 60 per cent of the population is illiterate while over 60 per cent have no access to potable water? In Nigeria during the mid-1990s massive wealth was generated from the country's oil reserves, yet the execution of Ken Saro-Wiwa in 1995 powerfully expressed the lack of political freedom and respect for human rights in the country. In Ghana various role-players debate the relative benefits of opening up the country's rain forests for gold mining. Local communities and environmentally-focused international NGOs emphasise the costs in terms of biodiversity and the disruption of local livelihoods, while many national politicians and multinational mining companies point out that the exploitation of gold reserves will generate considerable revenue for the country.

How will future generations benefit from the choices that current generations make? These questions illustrate the importance of the concept of sustainable development to the debate on the exploitation of minerals in African states.

John Maynard Keynes famously stated that “the ideas of economists and political philosophers, both when they are right and when they are wrong, are more powerful than is commonly understood. Indeed the world is ruled by little else. Practical men, who believe themselves to be quite exempt from any intellectual influence, are usually the slaves of some defunct economist. Madmen in authority, who hear voices in the air, are distilling their frenzy from some academic scribbler of a few years back” (Keynes, 1936:383-384). It is this perspective which informs the discussion of development theory in the current chapter. To a large extent the history of mining in Africa, and in particular the question of what role the state should play in extractive industries, has mirrored the evolving ideas of economic- and development theory. The following chapter will address the realities of the African state, exploring ways in which the theoretical frameworks outlined in the current chapter have found material expression on the African continent. The discussions of both the theoretical and material context of African states provides a framework for the investigation of public/private domain configurations within the mining industry in chapter five.

The African State

3.1. Introduction

This study is essentially concerned with policies and regulations as the means through which the state determines the framework in which actors such as multinational mining corporations, NGOs, communities and the state interact in the mining industry. It is important, however, that such policy debates are grounded in an understanding both of the broader theoretical environment and the empirical realities of African states. While the preceding chapter focused on the influence of theoretical perspectives on development, the current chapter will look more closely at the state and the progress of economic development on the African continent.

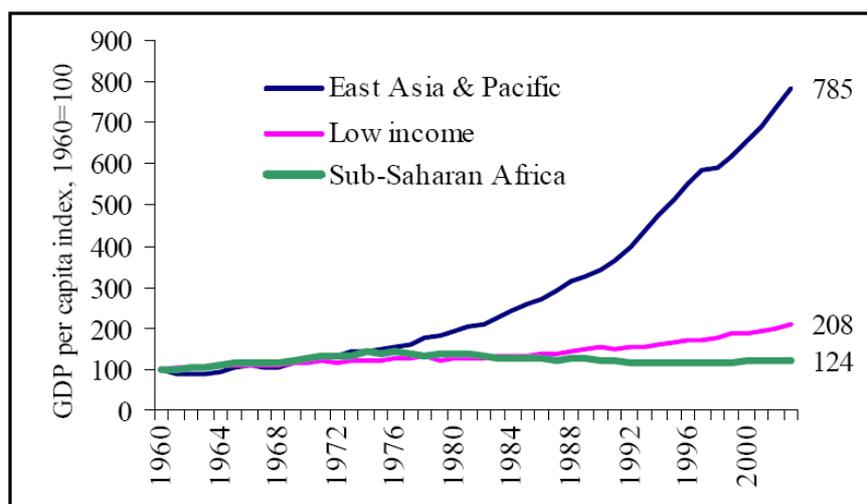
A proviso must first be stated, that being the fact that Africa is not a homogenous entity, and that discussions about the “African state” inevitably runs the risk of over-simplification. There is in fact great variety in the political, historical and economic experiences of African states, and the reality of modern, industrialised South Africa, for example, is worlds apart from that experienced in poorly developed and conflict-ridden areas such as the Sudan and Somalia. Bearing in mind the diversity that our concepts and discussions inevitably conceal, however, we may proceed to make some general observations about the African state. This chapter begins by providing an empirical snapshot of African states, and then proceeds to discuss some of the historical processes and theoretical concepts that may help in understanding the sometimes bleak reality of many of these states. The discussion of state formation will focus on the concepts of weak, predatory and collapsed states. While these concepts have been developed to understand state failure in Africa, it is important to also consider positive examples. The concept of the ‘developmental state’, for example has

been applied to certain successful African states such as Botswana and Mauritius. The characteristics of the developmental state have been outlined in the chapter three of this study.

3.2 An Empirical Snapshot

In the decades since decolonization Africa's development progress has lagged significantly behind other developing regions. Africa has the highest incidence of poverty of all developing regions, and is the only region to have regressed in poverty in the past 40 years. With only 10per cent of the world's population, Africa contains 30per cent of the world's poor. Although the per-capita incomes of Africa and East Asia were essentially the same in 1960, the difference in the growth rate between these regions meant that by 2003 the per-capita income in East Asia was five times that of Africa, as shown in the figure below (UNDP, 2005: 3). The report of the World Bank Task Force on Capacity Development in Africa (2005:1) note that "the widening gap with East Asia is particularly disquieting, underlining almost half a century of missed opportunities and bad choices".

Figure 3: Comparative per Capita Income Growth Paths



In terms of human development indicators such as life-expectancy, education and access to health services Africa consistently measures significantly below all other regions; for example, 40per cent of Africans lack access to safe drinking water, 33per cent have no access to health services, and 60per cent of global HIV/AIDS cases are found in Africa (Mills, 2000: 87).

Economic indicators also paint a bleak picture: the table below illustrates that, while other developing regions experienced significant gains in terms of Gross Domestic Product (GDP) per capita, investment per capita, exports per capita and savings as a share of GDP, Africa is the only region in which *all* these measures were lower in 1997 than they were in 1970.

In terms of infrastructure, including communication, transport, and financial infrastructure, Africa again is the worst performing region. Africa is also the most aid-dependent and indebted region in the world (OECD, 2003: 43). These economic indicators reflect processes such as capital flight, the loss of skills through emigration (the 'brain-drain'), and low levels of economic diversification and industrialisation.

Table 2: Economic Indicators by Region, 1970-1997					
	<i>Africa Excluding South Africa</i>	<i>Africa</i>	<i>South Asia</i>	<i>East Asia</i>	<i>Latin America</i>
GDP per capita, 1970	526	546	239	157	1,216
GDP per capita, 1997	336	525	449	715	1,890
Investment per capita, 1970	80	130	48	37	364

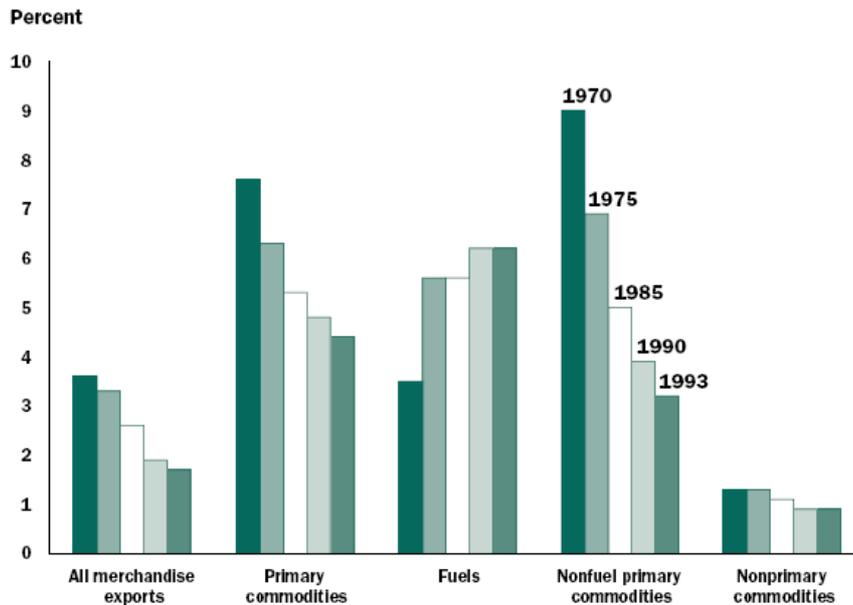
Investment per capita, 1997	73	92	105	252	504
Exports per capita, 1970	105	175	14	23	209
Exports per capita, 1997	105	163	51	199	601
Savings/GDP (percent), 1970	18.1	20.7	17.2	22.3	27.1
Savings/GDP (percent), 1997	16.3	16.6	20.0	37.5	24.0
Exports/GDP (percent), 1970	36.4	32.1	5.9	14.6	17.2
Exports/GDP (percent), 1997	33.0	31.0	11.4	27.8	31.8

Source: World Bank, 2000: 8

As forces of globalisation have shaped the international environment, it has become increasingly important for national economies to attract and tap into global financial, foreign direct investment, and trade flows. Africa, however, has become increasingly marginalised in the global economy. Furthermore, the limited trade and investment which does reach the continent is concentrated in a few major economies such as Nigeria and South Africa.

This marginalisation has occurred for a number of inter-related reasons, including Africa's low growth in merchandise exports; reliance on, and deterioration in, the terms of trade of narrowly-based traditional commodity sectors; a failure to industrialise; economic stagnation; and political-security instability (Mills, 2002: 90). The table below clearly illustrates that Africa's share in world exports has significantly declined over the course of the 20th century in all categories barring fuels. Africa's share of global foreign direct investment flows reflects a similar downward trend.

Figure 4: Africa's Share in World Exports by Product, 1970-1993



Source: World Bank, 2000: 21

Conflicts, violent transfer of power, and authoritarian forms of government have been a persistent feature of Africa's postcolonial history. Writing in 1974, Aidan Southall observes that "the rapid passage from constitutions patterned upon the French Republican or Westminster democratic models, through one-party states, to military dictatorships is clearly the most striking feature of state formation in Africa from the late 1950s to the present time" (Southall, 1974, 157). A World Bank report published in 2000 noted "one African in five lives in countries severely disrupted by conflict" (World Bank, 2000: 1). In 2001, an estimated 18 sub-Saharan African countries were directly or indirectly involved in wars, and as many as 12 others were in unstable situations which threatened to erupt into violent civil conflict (Mills, 2000: 93). The table below illustrates the

predominance of periods of instability and war in the postcolonial history of many African states.

Table 3: Political-economic change in selected African countries, 1960-2005

Benin	1960: Privileged state capacity	1963–72: 5 coups and 9 governments	1972–89: Marxism → economic collapse	1990–: Political and economic liberalization
Botswana	1966: Poverty, no capacity	1966–94: State dominated by one party and technocracy; national development plans		1994–: Continuity, with political competition
Burkina Faso	1960: Weak capacity	1960–83: Constant political instability	1983–87: Revolution 1987–91: Transition	1991–: Constitution, multiple reforms
Ethiopia	State-building and state control (including wars) by emperor Haile Selassie was continued from 1974 by Marxist regime of Mengistu			1991–: Experiment with ethnic federalism
Ghana	1957: Good capacity	1957–83: four coups and nine governments	1983–92: Crises and adjustment	1992–: Constitution, multiparty politics
Madagascar	1960: French administrative presence	1960–2002: Political instability, changing governments, continuous economic decline		2002–: Major governance reforms
Malawi	1964: Small civil service	1964–93: Banda dictatorship; state expansion, economic decline since 1978		1994–: Unstable politics → Reforms
Mauritius	1968: History of democracy	1968–82: Political-economic instability and change	1982–2000: Peaceful politics, exports, welfare	2000–: Higher education, service economy
Mozambique	1975: Since war, no capacity	1975–92: Civil war; no capacity	1992–94: Demobilization, reconstruction	1994–: Rebuilding basic capacity; reform
Rwanda	1962: Divided leadership	1962–80: Politically unstable, economic boom	1980–94: Decline, leading to genocide	1994–: Reconciliation, constitution, reforms
Tanzania	1961: Minimal state capacity	1961–85: Peaceful state expansion	1985–95: Slow economic adjustment	1995–: Multiparty, political-economic reforms
Uganda	1962: Some state capacity	1962–85: Political chaos and war	1986–: Political, economic reforms peaking in early/mid-1990s; slowdown, war, and uncertainty	

Source: World Bank, 2005: 129

Despite these sobering statistics, recent trends allow for guarded optimism. During the 1990s a number of states underwent peaceful transitions to democratic forms of government. While Africa seems unlikely to reach the

Millennium Development Goals, there is evidence of progress. Real GDP growth averaged over 5per cent during 2004-2005 (IMF, 2006: 1). Moreover, it is important to recognise that there have been a few states that have exhibited a stable political environment and strong economic growth for extended periods. Mauritius and Botswana are the best examples.

3.3 State Formation

The experience of colonization is a necessary starting point for any discussion of the African state. Though pre-colonial forms of governance did of course exist, it was during the latter half of the 19th century that the boundaries of modern African states were constructed as overseas territories of European powers. The colonial era has had an abiding influence on the political and economic structure of African states. The borders drawn up by the colonial powers essentially represented European economic and administrative boundaries, artificially dividing tribal, ethnic or religious groups and bringing together groups with no shared identity and often a history of conflict. The economies of these colonial states were structured in order to maximize the flow of primary commodities from Africa to colonial powers in Europe. The coercive and bureaucratic efforts of the state were focused on economic extraction. There was little sustained effort to educate local peoples or develop infrastructure beyond what was required for resource extraction.

At independence, few new African states were endowed with a well-prepared bureaucracy and the pool of skills on which they could draw was often very small and shallow; only 3per cent of puils of high-school age received a secondary education and, in an extreme case, Zaire (currently the Democratic Republic of Congo) achieved independence without a single national doctor, lawyer or engineer (World Bank, 1991:16). In few African societies, under colonial rule and well into the post-colonial era, was the authoritative reach of the state complete; and its legitimacy was often very patchy (Leftwich, 2000: 88). It is apparent that

in many cases in Africa the post-colonial world accorded statehood to entities that possessed “neither the underlying foundations of a coherent, indigenous unit nor the skills to allow them to function effectively” (Mills, 2002: 97).

In short, African societies at independence were characterised by arbitrary nation-state boundaries, by profoundly weak state traditions, by limited class formations and structures, by flimsiness in their national civil societies, by weakly prepared politico-administrative elites and by the foreign provenance of bureaucratic forms and norms, which were rapidly eroded by clientelism and corruption (Leftwich, 2000: 89).

Over time, as African economies deteriorated and state institutions lost legitimacy and a sense of purpose, the routines of state-society relations were disrupted. Economic deterioration increased state weakness (the inability of the state to regulate society and to implement public policies in an effective manner) and societal demands of state. Though perceived as the the key distributor of resources, the state lacked the capacity to satisfy public demands. Overstaffed, overbureaucratized, and itself a major consumer of scarce revenues, the state found itself unable to implement its own developmental programmes, particularly in the hinterland. A gap between expectations and performance weakened connections between the state and society, causing the state to assume authoritarian powers, while in fact exerting less and less control over society (Olayode, 2005: 5).

In the decades following independence clientelism, corruption, authoritarianism and the violent transfer of power became a common feature on the African continent. Ghana, for example, experienced four coups between 1957 and 1983, and Benin endured five coups in nine years between 1963 and 1972 (World Bank, 2003: 14).

3.4. Weak States, Predatory States and Collapsed States

A number of scholars have attempted to understand the dynamics that underlay the political instability and poor development record of most postcolonial African states. The African state has been described by some scholars as 'juridical' states (Jackson and Rosberg, 1986) or as 'quasi-states' (Jackson, 1987). By this they mean that the legal substance or juridical reality of such states, in terms of their recognition in international affairs and law, eclipses their substantive or 'empirical' reality. Such 'fictitious' African states have been characterised as having neither effective authority nor reliable administration. Other scholars have described the African state as "neopatrimonial", "underdeveloped" or "prebendal" states (Leftwich, 2000: 87). This section will focus on three important theoretical conceptions of the state that are particularly relevant to the African condition: the concept of the "weak state" developed by Joel Migdal, the concept of the "predatory state" developed by Pareto and expanded by Margaret Levi, and the concept of the "collapsed state" developed by William Zartman.

The work of Joel Migdal draws attention to the relationship between the state and society. He classifies as weak states those states that have a low capacity to "penetrate society, regulate social relationships, extract resources and appropriate or use resources in determined ways" (Migdal, 1988: 4). The public and private spheres are seen as an arena for a struggle for social control between the state on one hand, and various other social actors and organizations which challenge or resist state control, on the other. Many states in the developing world are seen to be weak in relation to relatively strong societies. Such states have failed to achieve legitimate supremacy over various other actors in wider society. Revolutionary or secessionist movements, whether based on ideological or ethnic identity, are perhaps the most obvious examples of such non-state forces, but one can also include landlords, labour unions, business groups, and social and religious movements (Leftwich, 2000: 98).

“Predatory states” have been defined as those that “extract such large amounts of otherwise investable surplus while providing so little in the way of ‘collective goods’ in return that they do indeed impede economic transformation. Those who control these states plunder without any more regard for the welfare of the citizenry than a predator has for the welfare of its prey” (Evans, 1995: 44). Margaret Levi has expanded on this concept by arguing that all states are predatory, as all rulers to a greater or lesser extent seek to extract as much revenue as possible from the population and use it to ‘line their own pockets or to promote their personal power’ (Levi, 1989: 3). What limits the capacity of rulers to extract more revenue are the political constraints imposed on them by socio-political groups that control the resources on which the rulers depend, whether economic or political, and the form of government, which considers such factors as whether it is democratic or not, the type of electoral system, the power of the executive vis-à-vis the legislature, etc. (Levi, 1981: 17). It follows from the assumption that rulers generally will seek to maximize their extraction of revenue, that the greater the state’s power and the fewer or weaker the constraints upon it, the more predatory the state will become.

Zaire under former President Mobutu Sese Seko, between 1965 and 1998, represents a classic example of predatory rule. From the late 1960s Mobutu worked to develop ‘coercive, administrative and financial means to increase his patriarchal patrimonial power’ (Callaghy, 1987: 96). At the same time he sought to destroy any alternative sources of political or economic power, thereby greatly increasing the authoritarian power of the state. This strategy was underpinned by systematic and pervasive granting of rewards and wealth to his followers and turning a blind eye to official fraud, corruption and illegal ventures (Callaghy, 1987: 97-103). By the early 1990s a former US assistant secretary of state for Africa could declare: “To say that Zaire has a government today would be a gross exaggeration. A small group of military and civilian associates of President Mobutu...control the city of Kinshasa by virtue of the loyalty of the 5000-man

Presidential Guard known as the DSP. This same group also controls the Central Bank which provides both foreign and local currency to keep the DSP loyal...there is no real government authority outside the capital city (Cohen, cited in Weiss, 1995: 157).

The concept of weak states and predatory states has much in common with William Zartman's conception of a collapsed state, which can be viewed as an extreme case of the former. A state, which is conceived of as the authoritative political institution that is sovereign over a recognised territory, fails when it no longer performs the functions normally attributed to it. Specifically, this means that the central authority through which laws are made and enforced is inoperative: laws are not made, order is not preserved, and societal cohesion not advanced or maintained. The state is no longer a source of identity or social meaning. The socio-economic framework is dissolved and replaced by political and economic stagnation and decline. This process is exacerbated by the conjunction of governmental failure and the disintegration of civil society. The damage done to the authority of the state and the cohesion of civil society is such that "the whole cannot be reassembled and instead the components of society oppose the centre and fend for themselves on the local level" (Zartman, 1995: 7).

3.6. Conclusion

In discussion about state policies governing mineral extraction, it is essential to be reminded that these policy developments often took place in states which can be described as weak, predatory, or collapsed. The lack of administrative capabilities or political will affected the extent to which the state employed the proceeds of mining to further socio-economic development. Public enterprises were particularly susceptible to looting by unscrupulous political leaders in order to sustain the patron-client relationships on which their authority rested. Moreover, the inability of the state to establish itself as a legitimate, sovereign administrative power meant that relatively autonomous civil society groups,

whether based on ethnicity, ideology, or other factors, competed with the state for control over revenues from mining activities in various regions of the country, leading to state/civil society tensions and often open conflict and violence.

Three Models of Public/Private Configurations in the Mining Sector

5.1. Introduction

This chapter outlines three models that represent key strategies through which states have endeavoured to access the revenues that result from the exploitation of mineral resources. The framework includes the direct participation model, in which the state is directly involved in the exploitation of minerals, the market-led model, in which emphasis is placed on attracting private sector investment, and an emerging sustainability model.

In many African countries a historical trend may be observed whereby the direct participation, market-led, and sustainability models have gained prominence in consecutive periods of postcolonial history. The development of a typology of public/private configurations, however, is not intended to simply describe historical developments, nor does it attempt to make a case for some manner of universally applicable “law” of regulatory development in the mining industry of African states. Instead, this typology presents an analytical framework to understand current debates concerning the appropriate role for the state in the mining sector. Though the direct participation model predominated in the 1960s and 1970s in Africa, for example, this model and the reasoning which informs it are by no means dead. Bolivia nationalised its oil and natural gas industry in 2006; in 2008 widespread protests by civil society and mineworkers took place in Indonesia calling for the nationalisation of the country’s mining industry; the nationalisation of mines has been widely discussed in Zimbabwe; and in South Africa the moves toward establishing a state-owned mining company has ignited

debate about the nationalisation of mines, an approach that has received support from the South African Communist Party and the Congress of South African Trade Unions. The direct participation model also includes public-private partnerships, which has perhaps most successfully been undertaken in Botswana and is an approach that has enjoyed increasing support in many African countries.

The sustainability model described in this chapter is a relatively recent development in many African states. The tension between a market-led model that strongly emphasises an investor-friendly regulatory environment and a sustainability model that seeks to supplement such an approach with greater control of the negative environmental and social impacts of mining is being played out in many African countries.

The attempt at identifying trends in the development of mining regulations in African countries is not entirely new. The Groupe de Recherche sur les Activités Minières en Afrique (GRAMA) at the Faculté de Science politique et de Droit, Université du Québec à Montréal have conducted a study of African mining codes and identified three generations of African mining codes (Mining Journal, 2003:106 and Campbell, 2003:2). The three generations of mining codes identified in the GRAMA study focuses on the progressive liberalisation of mining codes, but gives little attention to direct state participation in mining or current debates on sustainability in the mining industries of African countries. The approach employed by GRAMA and the criticism made of what in this study is referred to as the market-led model, however, provide valuable insights that have informed this study.

5.2 The Direct Participation Model

In most African countries today the state is not directly involved in the production of minerals. Instead, its role is seen to lie in establishing a policy framework and

creating appropriate market conditions for private sector investment in mining. The role of the government as regulator and promoter has become the status quo to such an extent that debates regarding the appropriate role for the state in mining typically revolves around the extent and quality of regulation and taxation, without touching on the possibility of direct state involvement in the production of minerals. Yet this has not always been the case; for various reasons that will be presented in this section, state-controlled mining companies were fairly common in African states during the 1960s and 1970s. A mining company is usually referred to as “state-controlled” when the State has a majority interest in the enterprise. This majority interest – which may range from 51-100 per cent of company equity – gives the State potential control of strategic decisions (UNCTAD, 1995:5).

Direct state involvement in the production of minerals was prevalent in the decades directly following decolonisation in Africa. Economic independence came to be seen as an important aspect of the decolonisation process in many African states, while poor access to capital and technology combined with relatively small industrial sectors provided further motivation for direct state involvement in mining. In addition, the importance of mineral wealth to many of these countries meant that the minerals sector was seen as an engine of growth and a strategic asset for the national economy, and mineral resources therefore became a priority for the state. At the same time nationalist sentiment and the influence of Dependency, Structuralist, and Marxist theory supported state ownership in key industries (Lungu, 2008: 403). Dobozi (1989, 47-48) has systematically presented the various reasons for state ownership of mining, which are briefly discussed below.

Ideology: Chapter three of this study outlined some of the ideological frameworks that encouraged public control and ownership of the means of production. This relates particularly countries where the government is influenced by Marxist or Socialist ideology.

Economic decolonization: Gaining state control of mining enterprises was in many cases viewed as an extension of the political decolonisation process, allowing the newly independent countries to assert permanent sovereignty over natural resources. This was a particularly powerful motivation in the early postcolonial period, and was supported by structuralist/dependency theory.

The “commanding heights”: It has been argued that the mineral sector, owing to its strategic position and the kinds of linkages it generated, is so significant for the development process that it can not be left in private hands, whether the investors be domestic or foreign.

Natural resource rents: It has been argued that the private control of a monopoly or the ownership of a scarce natural resource generate unearned incomes or rents for their owners. The public appropriation and distribution of rents derived from rich mineral deposits have been important motivations for public ownership of natural resource sectors in many developing countries.

Capital intensiveness, weak private sector and risk: In most developing countries only the State or foreign enterprises are able to mobilize the volumes of capital necessary to mount mineral projects. If foreign participation is not desirable, responsibility for undertaking large projects falls to the State. State participation is also motivated by dynamic market failures resulting from excessive risk aversion and short-sightedness of private entrepreneurs, which prevent them from entering into activities that take a long time to mature.

Maximization of government revenues and/or foreign exchange earnings: Mining projects can be very important sources of government revenue and of foreign exchange earnings and several governments have felt that direct State participation provides the best guarantee that these revenues will be maximised.

Social goals: Direct State ownership has been seen as a way to promote broader social goals such as regional development, reduction of unemployment, more equitable income distribution, etc.

The prevalence of the Direct Participation Model was reversed in the 1980s and 1990s as neo-liberal economic ideas gained ascendancy. The transition, however, was neither an automatic nor an easy process. It has been argued that the retreat of the state from direct involvement in mining activities resulted from certain general characteristics of public enterprises. State-controlled enterprises are said to be inherently less efficient than privately run enterprises, thereby portraying the withdrawal of the state from direct involvement of mineral production as a natural outcome of economic forces. The problem with state-owned enterprises are said to result from two primary sources. The first, known as the principal-agent problem, claims that since state-owned enterprises are run by managers who do not own the firm, the managers of state-owned enterprises will not strive to improve the efficiency as an owner/manager would do. The second argument is that there is no motivation for state owned enterprises to be efficient because there are not threatened by punishment of bad performance (UNCTAD, 2005: 30).

As regards the first assumption, it can be argued that the principal-agent problem is likely to exist to more or less the same degree in large privately owned enterprises, where there may be as many or more levels of delegation as in a state-owned enterprise, and where it cannot automatically be assumed that the objectives of managers at any level coincide with those of share-holders. As regards the disciplinary mechanism, it is argued that in the private sector bad performance leads to falling profitability and the exit of share holders, resulting in the fall of share prices, which exposes the firm to the possibilities of take-over. This mechanism does not exist in the case of state-owned enterprises as public funding ensures that they are not allowed to go bankrupt. However, experience appears to show that large firms, whether privately or publicly owned, are

generally not allowed to go bankrupt and that the disciplinary mechanism exists in neither case; there are also a number of examples of state-owned enterprises being liquidated (UNCTAD, 2005: 30).

There are certainly examples of poorly managed state-owned mining companies. In Zambia during the 1970s the state-owned mining conglomerate Zambia Consolidated Copper Mines Limited (ZCCM) provided social services in the mine areas which the state was no longer able to fulfil, including the provision of health and educational services, tourism, transport and farming. At the same time profits from the company were used to pay the salaries of some political appointees, purchase motor vehicles for government and provide free air transport to senior members of government (Simutanyi, 2008: 2).

Hilson (2001:54) observes that “the prolonged inefficiency of most government-operated utilities and industries, along with widespread corruption, economic mismanagement, and political instability, caused precipitous decline throughout the [sub-Saharan Africa] region”. “Prolonged inefficiency” and “widespread corruption” there may well have been, but was this an inherent aspect of state-owned companies or was it the result of poor governance and political instability? A number of empirical studies have attempted to answer this question by measuring the economic performance of state-owned enterprises. In a study on state participation and privatisation in the minerals sector the United Nations Conference on Trade and Development (UNCTAD) note that, at the level of individual enterprises, a number of studies have indeed found that State-owned enterprises have shown lower profitability than privately owned firms. Yet the report goes on to state that comparison between firms is fraught with difficulties and that “given the intended positive externalities of State-owned enterprises, profit may not be the appropriate measure” (UNCTAD, 1995:11-12). The report concludes that the results of empirical studies carried out “are thus inconclusive, especially concerning developing countries” (UNCTAD, 1995: 12).

Despite the various arguments for or against state-owned mining, it was not primarily on this level of debate that the privatisation of mining firms in many African countries took place. More important than these arguments, the mounting external debts and fiscal deficits of many developing countries during the 1980s and the conditionalities attached to economic adjustment lending programmes by international financial institutions put pressure on governments to initiate privatization programmes, including state-owned mining enterprises. African states had little choice but to concede to the pro-market reforms which were required to access World Bank and IMF funding (UNCTAD, 2005:33).

In Sub-Saharan Africa growth of real GDP fell from 6.4per cent in 1965-73 to 3.2per cent in 1973-1980, and further declined to 0.7per cent in 1982. It had reached a record low of 0.2per cent in 1983, and was accompanied by marked declines in average income per capita, formal sector employment, and per-capita food consumption. By the 1980s, some sub-Saharan African economies were on the brink of economic collapse (Hilson, 2001:55). Structural adjustment programmes sought to reform economic policies and institutions with a view to enhancing financial growth, improving resource allocation and economic efficiency, and increasing an economy's resilience to changes in domestic and global markets (Hilson, 2001:55). During the 1980s and 1990s, 35 countries of Sub-Saharan Africa implemented 162 structural adjustment programmes with the World Bank and/or the IMF. During the same period, 126 structural adjustment programmes were introduced throughout the rest of the world, indicating the importance of the structural adjustment experience for African states relative to the rest of the world (Campbell, 2003: 4).

From the late 1980s onwards "the main driving force behind legal reform in the minerals sector has been the need to establish competitive conditions to attract private capital investment, in a context of global liberalisation and market-based systems of allocation of resources. Generally speaking, law reform aimed at expanding market economies, establishing a climate of stability and predictability

in order to provide the conditions for business activity, and increased foreign investment in the economy” (Bastida, 2002: 4). The reform of Tanzania’s mining policies in 1998 is illustrative of a broader trend among African states. The new mining policy allows 100per cent foreign ownership; guarantees against nationalisation and expropriation, and offers unrestricted repatriation of profits and capital. The royalty rate is low at 3per cent and a number of additional incentives have been put in place, such as waived import duties on mining equipment and tax exemptions. While the previous mining code required applicants for mining licences to present a plan for local procurement of goods and services, this requirement is not included in the 1998 mining code. In fact, the WTO has noted that Tanzania “does not have any local content requirements” (WTO, 1999: 8). Similar investor-friendly reforms were instituted in a number of other African countries including amongst others Mali (1999), Ghana (1986), Madagascar (1999), and Guinea (1995) (Campbell, 2003: 6).

Despite the fact that there is no conclusive empirical evidence that public owned enterprises are inherently less successful than privately owned companies, the shift away from publicly owned mining enterprises during the 1980s and 1990s seemed to have an enduring effect: there are now relatively few state-owned mining enterprises and current debates about the role of the state deal predominantly with issues of regulation, oversight, and taxation rather than ownership. As noted in the introduction of this chapter, however, the debate on direct state participation in mining, whether through complete nationalisation or through public-private partnerships, still has a sympathetic audience in some countries.

5.3. The Market-led Model

The decreasing role of the state in mining companies during the 1980s and 1990s mirrored the ascendancy of neo-liberal economic orthodoxy, stressing a market-driven approach to industry (UNCTAD, 1997: 6). The processes of

privatisation and investor-friendly reforms that occurred in Tanzania occurred to a greater or lesser extent in almost all African economies in which mining formed an important part of the national economy. In order to understand the motivation behind these investor-friendly reforms it is informative to consider the outcomes of three surveys that sought to determine the factors that are most important to investors. Three surveys that address this topic are those by O'Neill (1992), Otto (1992) and Johnson (1990) (UNCTAD, 1997:19).

In all three surveys the right to mine a successful discovery (also referred to as 'security of tenure') is rated as the most important or second most important factor for potential investors. Governments in many developing countries have strengthened the link between exploration rights and mining rights, providing in some cases for almost automatic granting of mining permits to successful explorers (UNCTAD, 1997: 19). In addition, the mechanisms for settling disputes have been made more acceptable to foreign investors, with many recent investment agreements providing for international arbitration of specified disputes, while many countries have also entered into various bilateral and multilateral investment treaties that accord investors some form of protection against unilateral actions by host country governments (UNCTAD, 1997: 11). An increasing number of developing countries choose to subscribe to the International Centre for Settlement of Investment Disputes (ICSID) and the Multilateral Investment Guarantee Agency (MIGA), both of which are affiliates of the World Bank. ICSID arbitrates investment disputes between host governments and investors, while MIGA insures private investments against various forms of political risk (UNCTAD, 1997: 20).

Equitable profit repatriation together with transparent, predictable and stable taxes and royalties, as well as the availability of convertible currency are all rated as highly important by investors in the mineral industry. Recently introduced tax regimes in developing countries attempt to significantly reduce risks to investors.

It is interesting to note that the stability and predictability of the taxation system are more important than the actual rates of taxation (UNCTAD, 1997: 19).

The market-led model is primarily focused on the encouragement of investment, and policies are thus established which respond to the concerns of investors described above. In the market-led model taxation is the primary means through which the state extracts resources from mining activities in its territories. The *taxation problem* consists of “the design of a system for sharing revenue between mining companies and the government which maximizes the flow of government revenue over time, but which does not deter exploration and mine development activity that would otherwise be economically justified, and which does not cause a resource to be exploited in an inefficient manner” (Daniel, 1990: 4-5).

It must be recognised that mining faces high risks, which in many cases are unique to the minerals sector. Exploration risk, for example, refers to the fact that for all prospects considered, very few result in viable mines and the cost of exploration can be high. Once a deposit has been discovered and is to be developed, the mining company faces geological risk, i.e. the risk of the deposit not having exactly the same characteristics as expected. Finally, mining companies face political risk, that is, the risk of changes in government policies that may have negative effects on the economic viability of a project (UNCTAD, 1997: 25).

The importance of risk is further underlined by the long lead times and the capital-intensive nature of the mining industry. Lead time is the period of time between the initiation of any process of production and the completion of that process. Typically a mining project takes at least five years and sometimes as long as 15 years from initiation of an exploration programme to the start of production. During this period, payments have to be made for exploration, project development and construction. Accordingly, with the major share of costs normally occurring in the early parts of a project and income accruing only later,

the distribution of the tax burden over time becomes crucial (UNCTAD, 1997: 25).

The unique risks of the mining industry, the capital-intensive nature of mining, as well as the long lead times experienced in establishing mines must all be factored into the tax structure in a manner that makes it profitable for mining companies to invest in the national economy. Private-sector mining companies are ultimately profit-driven, and without the promise of a return on investment there is no incentive for these companies to operate in particular countries. In a bid to draw investors, African countries thus decreased corporate taxes, royalty rates and other duties such as import duties on mining equipment. Policies have also been established to allow 100 per cent foreign ownership, allow for unrestricted repatriation of profits, and provided guarantees against expropriation and other political risks.

5.4. The Sustainability Model

The 'taxation problem' was described above as the design of a system for sharing revenue between mining companies and the government which maximizes the flow of government revenue over time, but which does not deter exploration and mine development activity that would otherwise be economically justified, and which does not cause a resource to be exploited in an inefficient manner. This definition of the taxation problem illustrates the need for a fine balance between the interests of states and those of mining companies in the exploitation of minerals. In recent years there has been increasing recognition that the market-led model that arose in many African states during the 1980s and 1990s has failed to establish such a balance, instead favouring private companies at the expense of the state. Bastida (2002: 6), for example, notes that "the traditional manner in which mining has been carried out for centuries has tended to emphasise short-term gains, with no consideration for the negative

impacts on the environment and communities where the project takes place....” The point is also emphasised by Campbell (2003, 9) in a study on the reform of African mining codes when she writes that “recent forms of ‘re-regulating’ African states and societies, which have as their objective creating legal and regulatory frameworks conducive to attracting foreign investment, while clearly contributing to the latter, appear to fall very short of permitting sustainable development strategies and the introduction of norms and standards whether with regard to the protection of the environment, social impacts or labour, conducive to such strategies”.

Criticism of the traditional market-led approach in the mining industry has coalesced around a debate for “sustainable” mining and corporate social responsibility. In 2000 the World Business Council for Sustainable Development initiated the Mining, Minerals and Sustainable Development project (MMSD), which was conducted by the International Institute for Environment and Development. The project took the form of a two-year process of consultation and research “with the objective of understanding how to maximise the contribution of the mining and minerals sector to sustainable development at the global, national, regional and local levels” (International Institute for Environment and Development, 2002: 5). While noting that mineral resources are finite, which seems to contradict the idea of “sustainable” exploitation of mineral resources, the report argues that mining and mineral sector can incorporate sustainable development principles. Using the widely accepted definition of sustainable development adopted by the World Commission on Environment and Development (known as the Brundtland Commission), which defines sustainable development as development that meets the needs of the present without compromising the ability of future generations to meet their own needs, the MMSD identified four conditions for sustainable development:

- Material and other needs for a better quality of life have to be fulfilled for people of this generation;
- As equitably as possible;

- While respecting ecosystem limits; and
- Building on the basis on which future generations can meet their own needs (International Institute for Environment and Development, 2002: 21).

This understanding of sustainable development allows for the identification of four dimensions of sustainable development, namely an economic sphere, social sphere, environmental sphere and governance sphere. Broadly speaking, the move toward a sustainability model in the mining industry therefore involves efforts at “integrating economic activity with environmental integrity and social concerns”, while addressing aspects of governance on national, multilateral, industry and corporate levels (International Institute for Environment and Development, 2002: 16).

The emergence of a debate on sustainability in the mining sector is also illustrated through the extensive evaluation conducted by the World Bank to assess the impact of its policies and funding in extractive industries on sustainable development. The Extractive Industries Review (EIR) project was initiated following a submission by NGOs at the 2000 Annual Meetings of the World Bank, requesting the World Bank to stop supporting extractive industries because, in their view, the industry’s adverse environmental, social, and governance impacts outweigh whatever economic and social benefits may accrue to the domestic economy and the poor (World Bank, 2005, ix). The final report does show evidence of critical self-examination. For example, it is noted that, while investments by the International Finance Corporation (the private sector investment branch of the World Bank) in extractive industries have brought benefits to developing countries “the distribution of benefits...was not consistently and sufficiently addressed in IFC projects” (World Bank, 2005: 6). Again noting the benefits of improved infrastructure, employment opportunities and other aspects, the report goes on to note that “local people did not always have the requisite skills to take advantage of the opportunities. They sometimes

lost agricultural lands, and, in a few cases, compensation did not restore livelihoods for everyone affected” (World Bank, 2005:6). Part of the study included a detailed review of five resource-rich countries, which led to the finding that “Bank interventions were only modestly relevant and efficacious in addressing the challenge of improving fiscal policies and public expenditures....”(World Bank, 2005:7).

The main conclusion of the EIR project is that the quality of governance on a national level is the key determinant of the development outcome of World Bank support in extractive industries. According to the World Bank, creating good governance “is at the heart of the institutional and policy changes needed to sustain sound fiscal management and maximize the benefits from the extraction of mineral resources” (World Bank, 2005: 2). It is certainly true that the quality of governance does have an important impact on the contribution of mining to sustainable development, but undue focus on governance issues tend to shift the focus away from the fact that highly “investor-friendly” mining codes may provide the state with few resources to pursue development. Debate on the quality of governance, in other words, sidelines the question of what share of the wealth generated by mining activities should go to the state. “While [the quality of governance of a country is] undoubtedly of central importance...no amount of local governance is sufficient if not accompanied by legal and fiscal frameworks *designed to meet development objectives* and which are implemented in the context of good international policies and rules” (emphasis added) (Campbell, 2003: 2).

The concept of “sustainable mining” is not without its critics. Most vocal in this regard has been the organisation Mines and Communities (MAC), which describes itself as “a network of organisations across the world seeking to empower mining-affected communities in their struggles against damaging proposals and projects” (Whitmore, 2006:309). MAC was established in 2001 based on a joint-declaration of its constituent members. This “London

Declaration” forms the basis of a comprehensive critique of “sustainable mining”. It argues that the mining industry and industry supported initiatives such as the Mining, Minerals and Sustainable Development project discussed earlier in this section attempt to promote four key myths about mining, these are: (1) the supposed need for more and more minerals from ever more mines; (2) the claim that mining catalyses development; (3) the belief that technical fixes can solve almost every problem; and (4) the inference that those opposed to mining mainly comprise ignorant and “anti-development” communities and NGOs (Whitmore, 2006:310). In discussing these “mining myths” Andy Whitmore (2006:313), a member of the editorial board of MAC, observes that “sustainability implies something quite different depending on which side of the bulldozer you are on. Attempts by the mining industry to greenwash itself as a new, improved, sustainable industry simply will not wash....Those on the other side of the bulldozer can easily see that the emperor is naked, and the more he insists it is not so, the further away an honest dialogue is”.

From an industry perspective, the discourse on sustainable mining is closely linked to the concept of corporate social responsibility (CSR), which has emerged from earlier conceptual frameworks built around stakeholder analysis and ‘triple bottom line’ accounting. The continuity between these earlier concepts is reflected in current definitions of CSR; for example, much as ‘triple bottom line’ thinking, the World Business Council on Sustainable Development recognises corporate responsibility in the three domains of financial, environmental and social responsibility (Wheeler, Fabig and Boele, 2002:298). While there are common elements to definitions of CSR, as noted in a report by the Canadian government “the international CSR architecture is still underdeveloped – there is a proliferation of codes and standards and no agreement on how to define CSR or an accepted methodology with which to measure CSR performance” (2005:2). A succinct definition of CSR as it applies to the mining industry is provided by Hamann (2003:237) as “maximising the positive and minimising the negative

social and environmental impacts of mining, while maintaining profits: in short, contributing to sustainable development”.

Walker and Howard (2002:3-6) outline four key reasons why CSR has become important for mining companies in recent years. Firstly, it is noted that public opinion of the mining sector as a whole is poor; with greater weight given to concerns over environmental and social performance than performance in areas such as pricing, quality and safety.

The second factor noted is the increasing influence of pressure groups, which have consistently targeted the mining sector at local and international levels, challenging the industry’s legitimacy. Many large NGOs have campaigns specifically targeted at the mining industry, such as Oxfam’s Mining Campaign and Friends of the Earth International’s Mining Campaign. A number of NGOs have also been established to specifically address social and environmental concerns in the mining sector, for example, MiningWatch, a Canadian based NGO. Through research and advocacy, MiningWatch seeks to “address the urgent need for a co-ordinated public interest response to the threats to public health, water and air quality, fish and wildlife habitat and community interests posed by irresponsible mineral policies and practices in Canada and around the world” (Miningwatch, 2008:1).

The increasing sensitivity to social and environmental concerns within the financial sector also impacts on mining companies. In recent years a number of funds have been established dedicated to Socially Responsible Investing, which evaluates companies from both a risk management and social responsibility perspective. Some of these initiatives have been discussed in chapter two of this study.

Finally Walker and Howard note the importance of maintaining the goodwill of civil society and government for mining operations to continue, what has been

termed by MiningWatch the “social licence to mine”. The case studies discussed in the following chapter show how the social licence to mine is become an ever more complex issue as mining companies contend with more assertive states seeking to renegotiate mining policies as well as civil society organisations and local communities that place pressure on firms to act in a more socially and environmentally responsible manner.

5.5. Conclusion

The typology outlined in the current chapter has been developed as a conceptual tool to understand the debates surrounding public/private sector configurations in the mining sector. This chapter has illustrated that the negotiation and development of mining codes is a highly politicized process involving various stakeholders with varying levels of power, as well as divergent interests. The concept of the state as “cunning” and “competitive” is particularly relevant in this complex environment. In developing mining codes states sovereignty has indeed been “externally constrained and internally contested”, but at the same time states have used opportunities to “negotiate the terms on which they share sovereignty in certain fields of policy-making while retaining control over others” (Randeria, 2007: 7). The following chapter will employ the typology of public/private sector configurations in the mining sector to investigate the development of mining codes in three countries.

Case Studies

6.1. Introduction

This chapter examines how the direct participation model, market-led model and sustainability model are reflected in the historical experience of three African states. The three states that have been selected as case studies are all characterised by a strong reliance on mineral wealth, represented predominantly by a single mineral commodity: copper in Zambia, gold in Ghana, and diamonds in Botswana. The first two case studies, Zambia and Ghana, follow the historical development of the models discussed in the previous chapter, namely a state-led model in the decades following independence, a strongly market-led approach during the 1980s and 1990s, and in the new millennium an increasing move towards sustainability in the mining industry. Botswana has been chosen as a case study in part because it is an exception to the general trend among African states regarding the exploitation of mining. Mineral exploitation in Botswana has been characterised by successful partnership between the public and private sector; moreover Botswana has been relatively successful in translating its mineral wealth into developmental benefits for the country's population.

6. 2. Zambia

6. 2.1. Introduction

Despite relative mineral wealth, primarily in the form of copper, Zambia is currently one of the poorest countries in Sub-Saharan Africa (Lofgren, Thurlow and Robinson, 2004:7). In the years following Zambia's independence from the

United Kingdom (1965-1969) the country's copper industry generated about 60 per cent of internally-generated revenue. This situation changed dramatically in the following years, with the copper industry accounting for only 2.7 per cent of internally generated revenues during the 1975-1979 period, reaching the nadir in the 1977-1979 period when no government revenue was generated by copper mining (O'Faircheallaigh, 1986: 53). What had happened in this period to account for the drastic slowdown in copper production? The answer lies with a combination of internal policy decisions, bad management, and external factors such as the global price for copper.

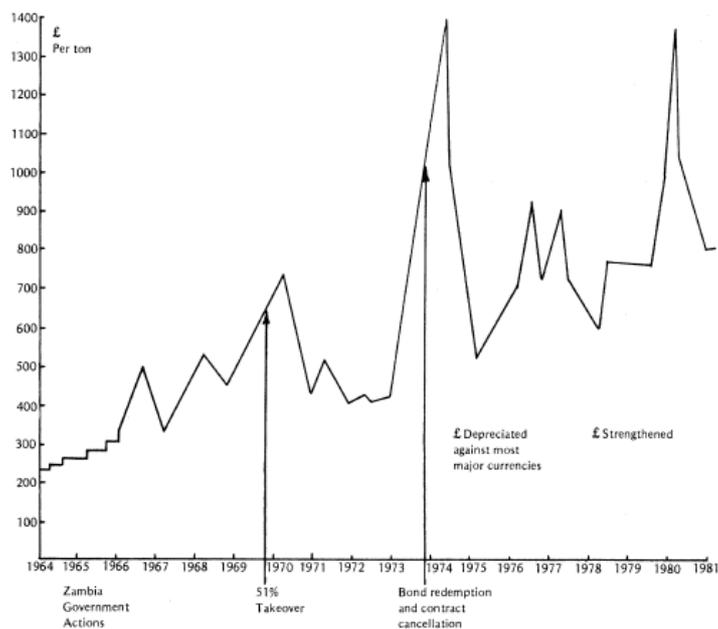
In 1964 the United Kingdom colony of Northern Rhodesia became independent as the Republic of Zambia, with Kenneth Kaunda as its first president. Copper had been the primary source of state revenue since the colonial period, and in the immediate post-colonial period the Zambian economy expanded rapidly as a result of high price levels for copper. These revenues were used for ambitious spending programmes in physical and social infrastructure; however, the economy was not diversified and remained largely dependent on copper production (Simutanyi, 2008: 1-2). This dependency left Zambia vulnerable to changes in global copper prices, and when copper prices fell in the mid-1970s it led to major economic setbacks. The scarcity of foreign exchange as a result of the drop in copper prices was compounded by other issues such as a lack of skilled manpower, a poor transport network and high debt-service obligations (Europa, 2007: 1268). The economic stresses experienced during the 1970s and 1980s ultimately led to a shift from a state-led model to a market-driven model.

6. 2. 2. The Direct Participation Model in the Zambian Copper Industry

It has been noted that copper prices in the years following Zambia's independence were relatively high, combined with a strong sense of African nationalism and independence these conditions contributed to a government decision to take over majority ownership of Zambia's two largest copper mines in

1969 (Dymond,2007:6). At this stage Zambia was classified as a middle-income country, with one of the highest GDPs in Africa, three times that of Kenya and higher than Brazil, Malaysia and South Korea (Fraser and Lungu, 2007: 7). The government paid for majority equity in Nchanga Consolidated Mines (formerly Anglo-American Company) and Roan Consolidated Mines (formerly Roan Selection Trust) with dollar-denominated bonds with maturities of 8 to 12 years. While the government now had majority ownership, the foreign companies were still largely responsible for managing the companies, and there were contractual restrictions on the level of intervention that the government could exercise until all bonds were paid (Stoever, 1985: 137).

Figure 5: London Metals Exchange Copper Prices, 1964-1981



Source: Stoever, 1985:139

The graph above shows the price of copper on the London Metals Exchange, on which the price which the Zambian government received for its copper was based. As is illustrated copper prices rose strongly in the 1973-1974 period. Expecting these prices to continue, the Zambian government took the opportunity

to borrow money from international lenders to repay the bonds owed to the foreign mining companies (Stoever, 1985: 138). Shortly after this step, however, copper prices plummeted and remained low and erratic for the rest of the decade.

Throughout the 1970s the costs of producing and selling copper continued to increase in Zambia. Some of the factors contributing to higher production cost were largely outside the control of the Zambian government, for example the loss of skilled expatriate miners. There were factors, however, that were the direct result of government efforts to play a greater role in running the mines, for example, for largely political reasons the mines maintained a high level of employment and production even when this was not justified by copper prices (Stoever, 1985: 142). Revenues from mining were used to support ambitious social spending programmes, while there was little investment in machinery or exploration (Fraser and Lungu, 2007: 8).

With no improvement in economic conditions, the government borrowed in order to maintain social spending programmes and to maintain the mines themselves. As with many other African nations the rapid increase in interest rates following the 1979 oil crisis saddled Zambia with enormous debt obligations. During the 1980s Zambia experienced a prolonged recession, leading the government to seek assistance from the International Monetary Fund and the World Bank (Lungu, 2008: 405).

6. 2. 3. The Market-led Model in the Zambian Copper Industry

Zambia accepted its first conditioned loan from the IMF in 1973 and entered its first World Bank structural adjustment programme in 1983. These loans were tied to a number of conditions including the devaluation of the country's currency, trade liberalisation, reduction in the mine labour force and a general wage freeze (Simutanyi, 2008: 2). The austerity measures imposed by the structural

adjustment programmes combined with worsening economic conditions and low prices for copper led to increasing unemployment and social tensions. Per capita income in Zambia delined by 50per cent between 1974 and 1994, leaving Zambia the 25th poorest country in the world at the end of this period (Fraser and Lungu, 2007: 8).

The economic crisis of the Zambian state ultimately led to a change of government in 1991, with the Movement for Multiparty Democracy coming to power on a platform of greater transparency, good governance and economic liberalisation (Lungu, 2008: 405). In order to manage the privatisation process to which the new government had committed itself the Privatisation Act was passed in 1992, establishing the Zambia Privatization Agency (ZPA). The ZPA oversaw the privatization of 273 state-owned companies by 1996 (Simutanyi, 2008:3).

Zambia's copper mines were viewed as a highly important aspect of the privatization process; Zambia's second Privatisation and Industrial Reform Credit from the World Bank specifically required that the government study options for privatising Zambia's mines (Lungu, 2008: 405). In addition to the ZPA, the government passed the Investment Act and the Mines and Minerals Act of 1995 in order to attract investment in Zambia's mining industry. The new legislation provided generous incentives to investors, including tax holidays of up to five years on income tax and customs and excise duty. New mine owners were provided with tax concessions, including reduced income taxes, a stability period of 20 years in which there would be no change to the existing agreements, a reduction in royalty taxes and exemptions from paying customs and excise duty for the first five years on a number of goods (Simutanyi, 2008:3). The Mines and Minerals Act of 1995 further allowed the government to enter into 'Development Agreements' with specific companies. These agreements allowed to extend further incentives to mining companies beyond those required by the Act (Lungu, 2008: 407).

With these incentives in place the Zambian copper industry was gradually privatized during between 1990 and 2004. The privatisation process was not an easy one; the government continuously sought delays for technical and political reasons (Lungu, 2008: 405). A former deputy minister of finance noted that “letting go of the mines was like giving up sovereignty....Many of us resisted attempts to privatise the mines as doing so took away the only leverage government had over our important public resource and placed them in the hands of foreigners who would do as they pleased” (cited in Simutanyi, 2008:3). The mines, however, were loss-making and required massive recapitalization that the government could not afford. Furthermore, privatisation was a specific requirement for debt relief from the World Bank and the IMF. For example, under the World Bank’s Heavily Indebted Poor Countries initiative (for which Zambia qualified in 1996) debt relief required participating countries to clear specific hurdles, each of which involved an assessment of performance by World Bank staff. Lungu (2008: 406) has observed that “as each hurdle approached, Zambia came under pressure to push through privatisations that were most controversial”. In a recent interview the Minister of Finance during Zambia’s privatization process, Edith Nawakwi, stated that the demand for privatization “was like somebody is pointing a gun to your head” (BBC World Service radio programme ‘Taxing Questions’ 2007, cited in Lungu, 2008: 408).

6. 2. 4. Moving Towards a Sustainability Model in Zambia

In recent years there has been increasing recognition that the privatization of Zambia’s copper mines has brought relatively few benefits to the country in terms of government revenue. In 2007 the Civil Society Trade Network of Zambia and the Catholic Centre for Justice, Development and Peace jointly published a report entitled *For Whom the Windfalls? Winners & losers in the privatisation of Zambia’s copper mines*. The report investigated many of the controversial aspects of the copper mining industry in Zambia and made a number of recommendations to the Zambian government, including tax reform to ensure

greater financial benefits to the country from its mining industry and greater transparency in concluding loan agreements with international financial institutions “in order to prevent a return to debt dependency or a mortgaging of Zambian democracy” (Fraser and Lungu, 2007: 67). In the same year three NGOs (Action for Southern Africa, Christian Aid and SCIAF, the official aid and development agency of the Roman Catholic Church in Scotland) published *Undermining Development? Copper mining in Zambia* a report that used Konkola Copper Mines, one of the largest copper mines in Zambia, as a detailed case study to illustrate the social and environmental costs of copper mining in Zambia (Dymond, 2007: 1-2). The principle author of the report, Abi Dymond, has stated that “it is vital that Zambia is given a fairer share of the profits from its main natural resource to help combat crippling poverty in the country...evidence suggests that Zambia is drowning in poverty whilst a rich mining company is running away with its greatest natural resource” (quoted in Ntomba, 2008:47).

Mineral royalty taxes were lowered to 0.6 per cent in the privatization period, one of the lowest rates in the world, and companies benefited from tax concessions for periods ranging from 10 to 15 years. These concessions, together with a rise in copper prices, has meant that mining companies have been making enormous profits. For example, Zambia’s two largest copper mining companies increased their profits from \$52.7 million in 2005 to \$206.3 million in 2006 (Konkola Copper Mines), and from \$4.6 million in 2003 to \$152.8 million in 2005 (First Quantum Minerals). Overall, mining companies made a total of \$652 million in profits from copper sales between 2003 and 2006, while only \$71 million flowed into the national treasury as taxes (Simutanyi, 2008:4).

Moves toward establishing a mining policy regime that would bring more benefit to the people of Zambia took shape when, in April 2007, the Zambian government together with civil society representatives requested the European Parliament to increase the royalty on projects backed by the European Investment Bank. The request for an increase from 0.6 per cent to 3 per cent

was denied by the European Parliament. In 2008 then president of Zambia Levy Mwanawasa announced the cancellation of tax breaks for mining companies operating in the copper industry. The mining tax royalty was increased from 0.3 per cent to 3 per cent, together with an increase in corporate tax from 25 per cent to 30 per cent and the introduction of a 15 per cent variable profit tax. The president referred to the former rates as “unfair and unbalanced” and explained that the new tax regime had been established “in order to bring about equitable distribution of mineral wealth” (Ntomba, 2008: 48-52).

6.3. Ghana

6.3.1. Introduction

Ghana provides an illustrative case study of the application of both the direct participation and market-led models. Much like Zambia a highly regulated mining industry with significant state participation gave way to an investment oriented regulatory framework as part of a structural adjustment process. Here too we see that environmental and social costs associated with increased private sector mining activity have become increasingly controversial.

6.3.2. The Direct Participation Model in Ghana

In Ghana, much as elsewhere in Africa, the period between 1965 and 1980 was characterised by the declaration of state sovereignty over natural resources, primarily through large-scale nationalisation of mines, the renegotiation of existing arrangements and the creation of state enterprises.

The government’s primary objectives in the acquisition of these mines has been summarised as the protection of employment and the access of foreign currency

generated by mines (Tsikata, 1997: 10). State mines were thus subject to government intervention for purposes often unrelated to economic efficiency. In time the mining sector became constrained by a lack of investment and exploration. Lack of investment, maintenance and modernisation left these state-run mines uncompetitive. Some changes were made to the mining code to attract participation from the private sector, but the overall environment was one of high taxes and other duties and significant state control. The mining industry stagnated; output in almost all the mines declined and the sector contributed relatively little to the GDP (Akabzaa and Darimani, 2001: 5-7).

6.3.3. The Market-led Model in Ghana

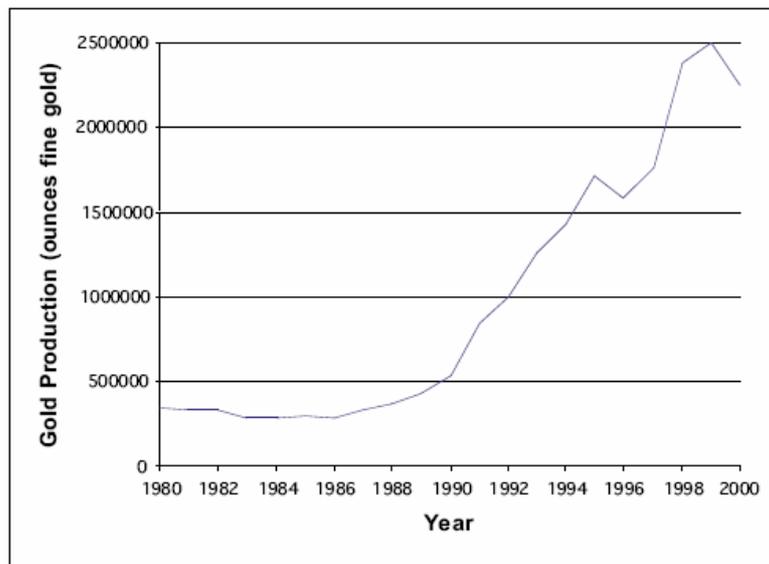
In the 1980s Ghana underwent extensive structural adjustment, which included privatisation in the mining sector and significant reform of mining codes to create a more investor friendly environment in the mining sector. While technological advances in the mining sector certainly contributed to the rapid increase in mining activity during the 1980s and 1990s, the policy reforms underwent during this period were an important factor in stimulating the mining sector.

The advances made in the Ghanaian mining sector since the initiation of reforms in the 1980s have been pronounced. By 1990, the sector had received over US\$460 million in outside investment, and by 2001 had attracted over US\$1 billion in new investment in the form of exploration expenditures, support for new mining operations, and finances for the refurbishment of existing sites (Hilson, 2001: 54). Companies from Australia, Canada, the Netherlands, South Africa, the United Kingdom, and the United States hold controlling interests in the majority of the country's operating mines (Akabzaa and Darimani, 2001: 25).

Increased levels of foreign investment have translated into substantial rises in mineral production and macroeconomic gains. Since the initiation of reforms the production of most minerals in Ghana has at least doubled: annual production

levels of gold increased from 283,593 ounces in 1983 to 1,747,018 ounces in 1997; for diamonds, 338,769 carats in 1983 to 562,651 carats in 1997; from 70,235 metric tons of bauxite in 1983 to 536,732 metric tons in 1997; and from 169,840 metric tons of manganese in 1983 to 355,232 metric tons in 1997 (Akabzaa and Darimani, 2001: 33). Gains have been particularly impressive in the gold-mining sector. Between 1980 and 2000 gold production in Ghana has increased by more than 500 percent (Hilson, 2001: 58).

Figure 6: Gold Production in Ghana, 1980-2000



Source: Hilson, 2004:65

Despite these positive developments there is growing recognition that the expansion of Ghana’s mining sector has delivered comparatively fewer benefits to local economies and communities. The Bank of Ghana estimates that more than 71 percent of the value of the country’s mineral exports is held in offshore accounts (Campbell; 2003:106). The privatisation process has effectively put Ghana’s mineral economy in the hands of large-scale mining companies, most of which are headquartered in the developed world.

Large-scale mining activities have not only taken land out of the hands of peasant-farmers and artisanal mine operators, but have also caused excessive environmental damage to the rivers, soils, and vegetation on which thousands of Ghana's rural inhabitants depend for their survival. In many cases, the land used for mining operations in Ghana has been forcibly acquired from peasant farmers under ambiguous regulations. Sometimes this acquisition occurred with no compensation. In some instances, the mines have been responsible for the dislocation and forced resettlement of communities numbering in the hundreds even thousands. Numerous violations of human rights, including shootings and beatings, have also been recorded in relation to the mines (Hilson, 2001: 58-59).

A report by UNCTAD notes that the interest of local communities, which are often isolated and may have little political power, have sometimes been jeopardized by mineral development projects. Such projects have led to environmental degradation, displacement of populations, reduced possibilities of exercising traditional occupations such as hunting and fishing, and conflicts between local inhabitants and immigrants drawn to the region by the mineral development (UNCTAD, 1997: 51).

In a study of the Tarkwa region in Ghana, Akabzaa and Darimani (2001:12) provide the following examples of negative consequences of reform in the mining sector:

- Employment: between 1992 and 1998, more than 1000 jobs were lost at large scale mines in Tarkwa. Initial employment cutbacks occurred when the Nsuta, Prestea, and Tarkwa mines were privatized. Additional cutbacks were made at the Msutu Manganese Mine and at other gold mines, the latter in response to depressed gold prices.
- Increased prostitution and drug usage: sex workers are now common around large-scale mining regions and within displaced artisanal mining communities. An addictive-drug subculture has taken root in Tarkwa.

- Family disorganization: regional implementation of relocation and settlement packages has affected family organization.
- Increased costs of living: the influx of mining activity into Tarkwa has led to a local increase in the cost of food, housing and clothing.

Large-scale mining companies have also underperformed environmentally throughout Ghana. With no national environmental body, mine managers were the beneficiaries of ad-hoc enforcement throughout the 1970s, 1980s, and early 1990s, enforcement that mostly permitted without reservation the disposal of wastes into the natural environment (Hilson, 2001: 57).

It is reported that mine pollution still occurs mostly unabated, despite the existence of the Ghanaian Environmental Protection Agency (EPA). Since its establishment in 1994, the EPA has been unable to wield its regulatory power to ensure the safe protection of rivers, ecology, and communities from resident mining activity. The influx of foreign investment in the sector has inevitably brought an increasing amount of land under the control of large-scale miners; mining activities currently control 70 percent of the land area of Tarkwa alone (Britwum, John, and Tay 2001: 38). Of particular concern environmentally is the stress that expanding mining activity has exerted on forests. In Ghana, where the government typically awards companies 150-square-kilometer land plots for 30 years (Drillbits & Tailings, 2000: 78), an estimated two million acres of virgin forested land is lost annually to mining (Hilson, 2001: 59).

The way in which land is awarded to mining companies is identified as a priority issue by the Ghanaian authorities, but “it appears they are working to enforce an environmental legislative framework that is clearly incapable of regulating existing activities effectively” (Hilson, 2001: 60). This supports the assertion by UNCTAD that, while there is no doubt that administrative regulation has to a certain extent been successful in improving environmental quality, in particular in developed countries, the situation in developing countries can be quite different.

“In many cases, regulations have proved to be legally or practically unenforceable, technically difficult to monitor and generally to have an insufficient deterrent effect. Enforcement problems often result from shortages of adequately trained staff and equipment” (UNCTAD, 1997: 48).

The reforms in Ghana did indeed provoke a mining boom. However, with the benefit of hindsight, questions arise from a developmental perspective as to the real benefits accruing to the local economy and population because of the sector’s limited capacity to generate local employment, because of the extensiveness of fiscal incentives, the lack of capacity to encourage value-added processing, the huge amounts of foreign exchange earnings retained offshore which means less control over the country’s foreign reserves, and more generally, the lack of capacity of the state to manage resources to meet developmental goals (Cambell, 2003: 6).

6.3.4. Sustainable Mining in Ghana

With increasing attention focused on the negative social and environmental impacts of mining in Ghana there has been considerable pressure on multinational mining companies operating in the country to reform their practices. One of the central concerns of civil society groups in Ghana is the impact of mining on the country’s forests; this issue is illustrative of the complex challenges faced by mining firms and the increasing influence of civil society organisations.

It is estimated that Ghana’s total forest cover has been reduced from 8.2 million hectares in the early 20th century to less than 1.6 million hectares at present. Much of the remaining forests have been declared permanent forest estates and are protected from further degradation, yet as a result of poor enforcement only 2 per cent of Ghana’s remaining forest is said to be in excellent condition. In 2003 the Ghanaian government took the controversial step to open up these forest reserves for mining (National Coalition of Civil Society Groups against Mining in

Ghana's Forest Reserves, 2003:1). Attention focused on plans by one of the largest global mining companies the Newmont Mining Corporation, to establish open pit mines to exploit gold reserves.

The Wassa Association of Communities Affected by Mining (WACAM) has been one of the most vociferous critics of mining in Ghana's forest reserves. This NGO was established in 1998 to raise awareness of the negative social and environmental impacts of open-pit mining in the Wassa West District of Ghana. WACAM forms part of the National Coalition of Civil Society Groups Against Mining in Ghana's Forest Reserves, which includes national and international actors such as Third World Network-Africa, the Centre for Public Interest Law, Friends of the Earth-Ghana, Food First International and Action Network. The standpoint of the Coalition was expressed in a 2004 presentation to the Ghanaian media as follows, "the net return of mineral wealth despite the significant foreign inflow into the sector is very doubtful viewed against environmental destruction, the level of offshore retention, human rights violations, and the limited access large-scale surface mining offer to community livelihood. Given the inadequacy of the national policy framework to address these issues we as a nation are recording net losses in the mining sector" (National Coalition of Civil Society Groups against Mining in Ghana's Forest Reserves, 2004:2-3).

In 2005 WACAM formed part of an international group of NGOs that were able to address Newmont's annual shareholders meeting. Together with representatives from Indonesia, Peru and Romania they called on Newmont to halt human rights abuses and pollution through its global operations. In 2008 WACAM was also involved in a coalition that financed expert reviews of the environmental impact assessments on which plans for new open pit mines in Ghanaian forest reserves were planned. The technical analyses were carried out by representatives from the US-based Center for Science in Public Participation and Earthworks, an international NGO which aims to protect communities and the environment from the destructive impact of mining. These organisations have also criticised the

International Finance Corporation which has invested in many of the major open-pit mines in Ghana (National Coalition of Civil Society Groups against Mining in Ghana's Forest Reserves, 2003:1).

The activities of WACAM and other NGOs illustrates the increasing influence of civil society actors in the mining industry. Through innovative and skilful use of the media, publicity campaigns, the internet and national and international networks, civil society organisations have increased their visibility and power to influence the behaviour of governments and private sector firms.

6.4. Botswana

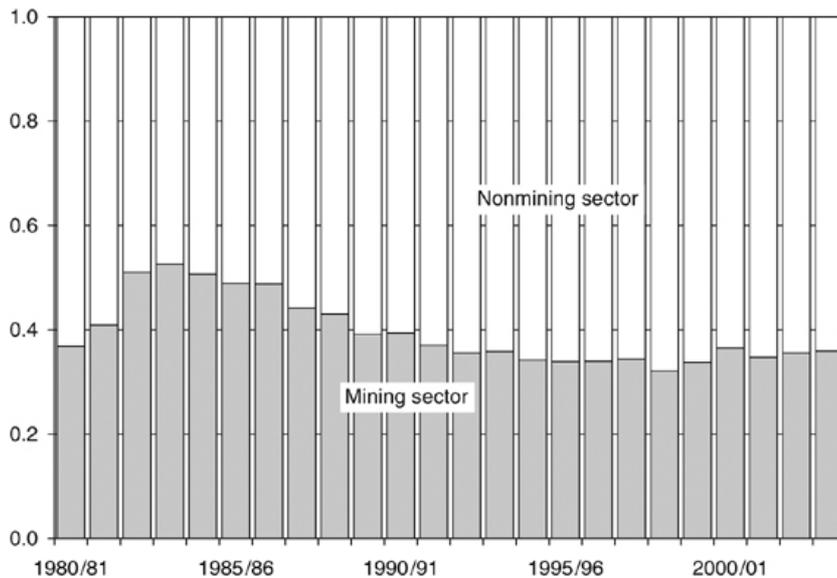
6.4.1. Introduction

Botswana is often cited as an African success story. One of the poorest countries on the continent on gaining independence from Britain in 1966, the discovery of diamonds matched with stable political governance and sound economic policies resulted in Botswana achieving the fastest growth rate of any economy in the world for thirty years following independence, with an average annual GDP growth rate of about 7.8 per cent (Limi, 2007: 3). Botswana has Africa's highest sovereign credit rating, with an economy ranked as Africa's least corrupt and, according to the 2008 Index of Economic Freedom, an "overall business climate [that] is superior for Africa and a model for the world" (Index of Economic Freedom, 2008: 1).

The extent to which mining has contributed to Botswana's development is illustrated in the graph below, showing the contribution of mining to total GDP growth for the 1980 to 2001 period. As illustrated, mining continues to contribute almost 40 per cent of the GDP, this despite efforts by the government to diversify the economy away from reliance on mineral resources. Botswana possesses

reserves of coal, copper-nickel, plutonium, gold and silver, but by far the most important mineral resource is diamonds, of which Botswana accounts for about a third of global production (Europaworld, 2007: 112).

Figure 5: Botswana: Mining Share of GDP, 1980/81–2003/04



Source: Limi, 2007: 672

6. 4. 2. A Successful Partnership Model

Botswana is an interesting case study in terms of the public/private sector relationship in the mining industry, as it illustrates a successful partnership model that has remained stable for a number of decades. From the first years in which minerals were exploited in Botswana the government has negotiated with private sector actors within a bargaining framework wherein both the Government and the companies have sought to extract maximum financial benefits without pushing the other to a point of abandoning proposed projects (Curry, 1987: 479). Initial bargaining strength tended to favour the companies, but this balance shifted toward the government as the companies (particularly De Beers) made

ever larger investments and the scale of Botswana's mineral wealth became more apparent.

Curry (1987:480) notes that "the Government of Botswana has always been a competent bargaining agent", and this is indeed expressed in the manner in which mining policies have been negotiated with private companies to maximise benefits to the state. Since the beginning of large-scale diamond production began in 1971, all diamond mines have been operated through Debswana Diamond Co, which is a joint venture owned equally by the Botswana Government and De Beers Centenary AG of Switzerland (Europaworld; 113). The Botswana government receives revenue from mining through royalty payments, tax on gross profits, and through its equity ownership of Debswana, it receives a dividend share of the operation's net profits.

6.4.3. Good Governance as a Response to the Resource Curse

While the potential wealth represented by mineral resources would appear to give resource-rich countries a decided advantage in furthering economic development, it has been observed that these countries in fact often grow at a slower rate than resource-scarce countries. This phenomenon has come to be referred to as the "resource curse". A number of studies (Sachs and Warner, 1995; Papyrakis and Gerlagh, 2004; and Leite and Wiedmann, 1999) have conducted quantitative analyses to establish the existence of the resource curse and establish hypotheses regarding its source. Among the factors contributing to the resource curse is the tendency towards corruption in capital-intensive industries, the negative impact that currency appreciation brought about through high value mineral exports has on other industries (the so-called "Dutch Disease") and the tendency towards underinvestment in other sectors in the economy (Auty, 2001: 77-78).

It may be argued, however, that the most important factor contributing to the impact of the resource curse is quality of governance. As emphasised by a

recent IMF study “resource abundance would be advantageous to any economy whose government has a sound long-term plan for extracting natural resources and an effective mechanism for spending revenues on the social and economic infrastructure needed for sustained growth. If governance is poor, resource earnings tend to be unevenly distributed and unfairly dissipated, leading the country into economic stagnation” (IMF, 2006: 4-5).

In order to compare the quality of governance among countries Kaufmann, Kraay and Mastruzzi (2003) developed a Governance Research Indicator Snapshot database, the results of which are shown in the graph below for specific Southern African countries and other country categories.

Table 3: Quality of Governance Indicators, 2002

	Botswana	Lesotho	Namibia	South Africa	Swaziland	Sub-Saharan Africa	Low-income countries	Middle-income countries	High-income countries
Voice and accountability	0.75	0.53	0.66	0.75	0.28	0.42	0.38	0.57	0.82
Political stability	0.78	0.57	0.69	0.52	0.64	0.45	0.40	0.59	0.82
Government effectiveness	0.66	0.40	0.48	0.59	0.36	0.30	0.27	0.42	0.77
Quality of regulation	0.72	0.44	0.59	0.66	0.50	0.38	0.34	0.51	0.85
Rule of law	0.67	0.48	0.60	0.53	0.34	0.33	0.29	0.47	0.84
Control of corruption	0.62	0.39	0.47	0.51	0.36	0.29	0.25	0.39	0.76

Source: Kaufmann, Kraay, and Mastruzzi (2003)

Source: Limi, 2006: 9

In terms of these measures of governance Botswana exceeds all the Southern African states provided in the table (except for ‘voice and accountability’ in which it has the same score as South Africa) and also all scores given for middle-income countries in general.

In addition to high standards of governance, the Botswana government has also been very conscious of the fact that the country’s mineral wealth is a non-renewable resource. In order for non-renewable resources to effectively contribute to sustainable development the depletion in natural capital, such as minerals, must be offset by a compensating increase in other forms of capital –

this formula is known as the Hartwick-Solo rule for sustainability (Lange and Wright, 2004:485-486). In accordance with the Hartwick-Solo rule for sustainability, the Botswana government has used mining revenues to invest in the country's physical and human capital through public expenditure on *inter alia* roads, water and electricity connections, communications, health and education (Lange and Wright, 2004:498).

6.4.4. Challenges for Botswana

Though most analysts agree that Botswana has been remarkably successful in translating its mineral wealth into developmental benefits, particularly when measured against the experience of other African states, the country is not without its challenges. Two issues that will be addressed in this section is the high rate of economic inequality and unemployment in the country, and the allegations of human rights abuses against the San.

It has been observed that aggregate economic growth without broad social and economic development centralizes benefits among relatively few people and virtually disenfranchises the majority from progress. While Botswana has invested heavily in health, education and public infrastructure, it has been noted that "benefit-sharing in Botswana is far from even, or even reasonably equitable (Curry, 1987:487). Recognising the danger of an unbalanced reliance on mineral wealth, the Botswana government has made efforts at diversifying the economy. Though these efforts have met with some success, progress is hampered by certain characteristics of the country: it is landlocked, with a small population in which HIV/AIDS has become increasingly prevalent. A recent study notes that, after thirty-six years of independence, Botswana's national economy has not broadened or diversified in any meaningful way (Taylor and Mokhawa, 2003: 263). Botswana has one of the most unequal distributions of income, wealth and access to essential services of any country in the world and less than a quarter of the workforce is formally employed. As early as 1987, Curry (487) noted that "the pattern of growth is producing two Botswanas – one rich and the

other poor – and this poverty amidst plenty is disillusioning many Batswana. Their disillusionment could threaten the foundation upon which progress has been based”.

A further issue that Botswana has grappled with is its engagement with the “conflict diamonds” campaign and the manner in which this issue has been linked to its treatment of the San people of Botswana. The issue of conflict diamonds has become a major issue in international politics over the last few years, mainly the efforts of a wide range of civil society organisations.

Botswana’s response to the conflict diamonds campaign was to support restrictions on the sale of conflict diamonds, while at the same time stressing that its own diamonds were ‘conflict free’. Botswana launched a ‘diamonds for development’ campaign to stress the developmental benefits that diamonds can have if properly managed, in order to counter a strong negative reaction against all African gems, which would have serious consequences for Botswana’s diamond-dependent economy (Taylor and Mokhawa, 2003: 271-272).

The Botswana Government’s claim that its diamonds were conflict free was challenged by civil society organisations concerned with the government’s treatment of San Bushmen. Small groups of San still lived in the Central Kalahari Game Reserve, and the Botswana Government had made the decision to relocate these communities and cut off water and other essential social services to the areas which they inhabited in the reserve. The government’s argument was that the communities were so small and isolated that it was not economically viable to supply water and other social services to these communities. In 2002 a London-based NGO, Survival International, organised protests in London, Paris, Madrid and Milan against the Botswana Government’s treatment of the San. Questions were also asked in the British House of Lords about the treatment of the San in Botswana. Criticism gathered pace when the UN Committee on the Elimination of Racial Discrimination condemned Botswana for its “ongoing

dispossession of Basarwa/San people from their land” (Taylor and Mokhawa, 2003: 272-274).

The question of whether the removal of the San people is linked to diamond mining is not clear. The government maintains that its reasons lie in supplying better and more affordable services to the communities, however, international NGOs such as Survival International seem to have successfully linked the issue of the San with that of diamond development in the Central Kalahari Game Reserve. This campaign has had such success in influencing public opinion that Debswana’s managing director himself stated that “the Basarwa issue could impact negatively on diamond production in Botswana” (cited in Taylor and Mokhawa, 2003: 281).

6.5. Conclusion

The three models outlined in chapter five draw together common elements in the historical experience of many African states. The current chapter has endeavoured to show how these models have found expression in three African states. Ghana and Zambia illustrate a common historical trend in the development of these models. Botswana, however, is an exception both in the manner in which the public/private domains have been involved in the mining industry and in the relative success of the country in translating its mineral wealth into socio-economic development. In all three case studies it is apparent that principles of sustainability are gaining greater importance, yet the move towards a sustainability model is slow and not without challenges.

Conclusion

1. Summary of Findings

This study has investigated the relationship between the state and the private sector in the mining industry within African states. It has been argued that the state, through its power to establish the regulatory environment governing the exploitation of minerals, plays a primary role in determining the contribution of mining towards sustainable development. The state, however, fulfils its regulatory role within the context of globalisation. The process of globalisation is multi-faceted, encompassing economic, sociological and political facets. Within the mining industry one of the major impacts of globalisation has been the increasing influence of multinational corporations, high fluidity in capital markets, and the general marginalisation of African states with regard to these capital flows. These processes have resulted in an imbalance of power between states and multinational corporations. African states eager to attract scarce fixed-capital investment flows have established regulatory environments highly favourable to multinational firms, often at the expense of social development and environmental concerns. This study has shown how multilateral financial institutions, specifically the World Bank and the International Monetary Fund, have played an important role in the establishment of these regulatory environments and the privatisation of publicly owned mining companies in African states.

In addition to economic processes, globalisation also encompasses sociological and political change. For example, the ways in which communities and interest groups organise and communicate have evolved, becoming more complex and more influential. Civil society groupings use information technology to network amongst each other and gain publicity for their causes. In Ghana the Wassa

Association of Communities Affected by Mining (WACAM), a relatively small local organisation with a specific focus on the impact of mining companies operating in Ghana's forest reserves (particularly the Newmont mining company), was able to join the National Coalition of Civil Society Groups Against Mining in Ghana's Forest Reserves, which includes national and international actors such as Third World Network-Africa, the Centre for Public Interest Law, Friends of the Earth-Ghana, Food First International and Action Network. Through effective campaigning WACAM was included in an international group of NGOs that was able to address Newmont's annual shareholders meeting. Together with representatives from Indonesia, Peru and Romania they called on Newmont to halt human rights abuses and pollution through its global operations. These actions were taken further in 2008 when this local NGO collaborated in financing expert reviews of the environmental impact assessments on which plans for new open pit mines in Ghanaian forest reserves were planned. This is only one example of how civil society has increased its sophistication and clout within the mining industry.

Chapter five of this study outlined three models of public/private configurations in the mining industry. It is argued that, in many African states, these models developed consecutively within a particular historical context. The direct participation model was prevalent in the first decades following decolonization. In the 1980s and 1990s the direct participation model was replaced by a market-led model which emphasised the importance of a regulatory environment that would attract private sector investment. Chapter three and four provide the context within which these changes took place. To a large extent the transition from a direct participation to a market-led model within the mining industry reflected changes in development theory, with the neo-liberal "Washington consensus" coming to dominate development discourse and practice. The changes in development theory described in chapter three, however, cannot be fully appreciated without an understanding of the empirical realities faced by African states in the years since decolonization. Chapter four, then, outlines how

a number of factors contributed to slow or negative economic growth in many African states, with many facing economic crisis by the early 1980s. Some of the factors contributing to this poor development record are to be found in the nature of the state and the history of its emergence from colonialism. Limited bureaucratic power, contested legitimacy, poorly developed institutions of governance, underdeveloped infrastructure and many other factors characterised these 'weak' states. Corruption, authoritarianism and conflict became increasingly prevalent as means through which access to limited resources were controlled, to the extent that some African states could be described as 'predatory' and/or 'collapsed'. The lack of administrative capabilities or political will affected the extent to which the state employed the proceeds of mining to further socio-economic development. Public enterprises were particularly susceptible to looting by unscrupulous political leaders in order to sustain the patron-client relationships on which their authority rested. Moreover, the inability of the state to establish itself as a legitimate, sovereign administrative power meant that relatively autonomous civil society groups, whether based on ethnicity, ideology, or other factors, competed with the state for control over revenues from mining activities in various regions of the country, leading to state/civil society tensions and often open conflict and violence.

In recent years there have been growing signs that the market-led model established in many African countries during the 1980s and 1990s is being gradually transformed. Critics have long argued that the investor-friendly regulations governing mining in many African countries do not provide adequate controls to manage the social and environmental costs associated with mining. Furthermore, tax regimes extremely favourable to mining firms have meant that states have in many cases received little benefit from the exploitation of mineral resources within their sovereign territory. There is also growing concern with the distribution of income generated from mining activities within the state and the negative impacts that mining can have on local communities.

Community organisations and international NGOs such as MiningWatch, Survival International Oxfam and WACAM have contributed to a groundswell of critical voices within civil society. The discourse within the industry itself has begun to change, with increasing emphasis given to corporate social responsibility. Industry organisations such as the World Council for Sustainable Development and the World Diamond Council have initiated studies and established industry standards for socially and environmentally responsible behaviour. Pressure on firms to act in a socially and environmentally responsible manner has also increasingly emanated from the financial sector as investment banks, shareholders and individual investors have instituted socially and environmentally responsible investing practices.

National regulatory frameworks on mining and minerals are the target, arena, and record of power struggles among a variety of actors. This study has sought to emphasise that the development of national mining regulations is fundamentally a political process. The state plays a unique role in this process in that it ultimately sets mining policies. It serves as the “central coordinating intelligence” which can “steer, push, cajole, persuade, entice, coordinate and at times instruct the wide range of economic agents and their groupings to go this way or that, to do this and not that”(Leftwich, 2000:7). In balancing the needs and demands of the citizenry, local communities, issue-specific NGOs, international financial institutions and of course private sector mining companies, states have been “competitive” (Cerny, 1997), seeking to establish policies and institute good governance principles that will attract investment. They have been “cunning” (Randeria, 2007) by seeking to “negotiate the terms on which they share sovereignty in certain fields of policy-making while retaining control over others” (Randeria, 2007:7). They have operated as “democratic facilitative states” (Gordon, 1995), which “consciously and strategically shape, guide and co-ordinate the market, [while at the same time addressing] questions of accumulation, equity, democracy, and new ownership structure” (Edigheji, 1999: 115).

2. Prospects for Further Research

In many African countries it appears that we are witnessing a transition from a strongly market-led model to a sustainability model. The signs of these changes are many, including the raising of royalty rates, the growing influence of NGOs, the establishment of environmental and social responsibility standards, and growing emphasis on the equitable distribution of wealth derived from mining activities. Mining companies are themselves increasingly adopting the language of sustainability and corporate social and environmental responsibility. Some NGOs and local community organisations, however, have questioned the sincerity and impact of government and private sector sustainability initiatives. As the case of mining in Ghana's forest reserves illustrates, stakeholders are still faced with tough choices regarding the manner in which wealth is generated through mining. While this study has provided a broad overview of the changes in mining regulatory frameworks in post-colonial Africa and sought to develop an analytical tool through which the debates concerning mining code reform can be investigated, future studies should seek to provide a detailed assessment of how the models outlined in this study are manifested within particular national situations. Such detailed country-specific, or even project-specific studies will allow for a deeper understanding of the depth and character of the sustainability model within the mining sector of African countries.

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