Volume 8 Issue Number 1 JUNE 2019

JOURNAL OF POLICY AND LEADERSHIP

ISSN 1821 – 8318 Centre for Policy and Leadership,
School of Public Administration and Management, Mzumbe University
P.O. Box 2, Mzumbe Morogoro, Tanzania
Tel. +255 023 2604380/1/3/4, Fax +255 023 2604382/2600671
E-mail: cepole@mzumbe.ac.tz; Website: www.mzumbe.ac.tz

ISSN 1821 – 8318 Centre for Policy and Leadership,
School of Public Administration and Management, Mzumbe University
P.O. Box 2, Mzumbe Morogoro, Tanzania
Tel. +255 023 2604380/1/3/4, Fax +255 023 2604382/2600671
E-mail: cepole@mzumbe.ac.tz; Website: www.mzumbe.ac.tz

JOURNAL OF POLICY AND LEADERSHIP

Centre for Policy and Leadership
School of Public Administration and Management

VOLUME 8 ISSUE NUMBER 1 JUNE 2019

Mzumbe University, Tanzania
ISSN 1821 - 8318

CONTENTS

Why Should Tanzania Engulf Its Natural Wealth? A History worth Attention and Lessons Learnt From Economic Hurdles

Mectrida Bonephace[1]

Abstract

This is a review paper on recent progress in Tanzania's natural resources management hurdles towards their full utilization for economic development. The paper summarizes how borrowed legal framework has led astray economic flourishment in the natural resource sector in Tanzania. It shows tactful international web-pin Tanzania had entered into and from which the rescue would have been impossible if the Tanzania's President, Hon. John Joseph Pombe Magufuli (JPM) wouldn't have acted to end the overdue misery of the nation. Feeble legal framework in natural resources and investment laws thereon have fore-fronted in this paper as the underlying cause for failures to manage Tanzania's natural resources. In particular, Foreign Direct Investments (FDIs) is pointed to be one of the drivers through which Tanzania was trapped and exploited-a loop created by foreign adopted legal framework. The paper reckons on Tanzania's inability to out-way the tactics within which its natural resource and investment laws had tumbled. It commends enactment of new natural resource laws and explains hopes availed by the new laws.

Keywords: Natural wealth, neo-colonialism, FDIs reroute, natural wealth exploitation, new natural resource laws

[1] Mectrida Bonephace is an Assistant Lecturer, Department of Tourism and Recreation, College of Forestry, Wildlife and Tourism, Sokoine University of Agriculture, P.O. Box 3167, Morogoro, Tanzania. Email: meckyb@sua.ac.tz. OR mectrida@yahoo.com OR meckyb06@gmail.com.

Introduction

After political independence, Tanzania, (like other developing countries) has been attracting Foreign Direct Investments (FDIs). FDI means creation of enterprises abroad or the acquisition of substantial stakes in existing enterprises abroad.[1] It means application of capital in the country which comes from abroad. Enormous efforts have been invested in achieving maximum absorption of FDIs in Tanzania. Attracting FDIs therefore means establishing an investment environment for foreign investors' convenience to land investments in the country. The investments in Tanzania today entail both local and foreign investors.

A local investor is either a natural person who is a citizen of Tanzania, or a company incorporated according to the laws of Tanzania or a partnership whose controlling interests are owned by a citizen of Tanzania. A foreign investor in the other hand is either a person who is not a citizen of Tanzania, or a company which is incorporated under the laws other than those of Tanzania or a partnership whose controlling interests are owned by foreigners.[2] Because of deliberate efforts to promote investments in Tanzania soon after independence, Tanzania, today, is branded among the best investment destinations in Africa,[3] although the nation has gone through countless hurdles to achieve such a brand.

Historical Background – the History

Since 1600s, Europe (and other developed countries) had grown into capitalism and the 'capitalist' class in Europe used their control of international trade to ensure that Africa specialised in exporting captives. By 1800s, Europeans continued to make super profits from the exploitation of African natural resources and African labour. These profits continued to be *re-invested* back in Europe into areas such as shipping, insurance, the formation of companies, capitalist agriculture, technology and the manufacture of machinery. From a merchant's perspective, profit originated from "buying cheap and selling dearly." While this is the goal of every profit making entity, mercantilists applied this view to the nation as a whole. Mercantilists believed further that the seller gains via the buyer's loss. Therefore, a nation will only become richer if it exports or sells more than it imports or buys.[4] Moreover; they believed that, in order to become rich, someone else must be impoverished; and that "someone else" by the time being was African countries, (Tanzania inclusive).

After their capital has been accumulated (through both primitive and legitimate activities) the capitalist nations re-invested in their countries to the maximum. As a result of over-investing, the capitalist had

[1] The Journal of World Investment of 2003, at p.1011
[2] Ibid s.3
[3] https://www.tanzaniainvest.com/economy/country-to-invest-in-africa-2018, accessed on 12.02.2019.
[4] http://www.econlib.org/library/Enc1/Mercantilism.html, retrieved 22.05.2013

exorbitant capital but lacking raw materials and areas for further investments. That is where they opted to colonise African countries, and this can be understood to be their need to expand their investments.

According to them, colonising the African countries would avail them what they did not have in their territories such as enough land for extending their investments and raw materials which were urgently needed for their established industries. At that time, many industries existed and each was in need of the same raw materials. That is why they opted to colonising African countries, Tanzania in the list. After the capitalist States started to acquire colonies in Africa, they realised the division was not equal among them. Some of the capitalists had acquired more colonies than the other and this (according to their ambitions) could not support fair competition (as between themselves). The Berlin Conference of 1884-1885 formalized what has become known as the *'Scramble for Africa'* where European powers arbitrarily divided up Africa between themselves and started administrating it as their own - in the name of their new "colonies."[5]

Although the capitalist powers had divided Africa for themselves, the division *per se* did not suffice their problems and so at different times they entered into world wars (WWs) which are WW I[6] and WW II[7]. The wars damaged the capitalist economy, eventually capitalists could not manage to restructure their economy in both their home countries and in their colonies. They had to surrender/abandon/release the colonies; and that is how African countries regained their independence. Over seventy years of dominance, they bequeathed to native Africans countries that looked remarkably different from how they looked in 1880s and albeit (with some exceptions,) these countries are among the poorest in the world today, (Tanzania inclusive).

Post-WW II witnessed dramatic nationalizations and other forms of economic restructuring in several developing countries (Tanzania inclusive.) These changes affected major western economic interests, particularly in the natural resource sector. In taking these measures, the developing countries asserted that the measures were a legitimate exercise of national sovereignty which did not admit any qualifications or limitations.[8] Developing countries were of the views that their sovereign rights to restructure the political and economic order in their respective countries and to safeguard their economic independence would be frustrated if it was encumbered by exerting requirements of the traditional requirement of State responsibility.[9] Therefore after being freed from the shackles of colonialism, the newly independent states agitated not only for the ending of economic dominance of former colonial

[5] http://geography.about.com/cs/politicalgeog/a/berlinconferenc.htm, retrieved on 24.05.2013
[6] Of 1914–1918
[7] Of 1939-1945
[8] International and Comparative Law Quarterly, Vol 37 at p.594
[9] Ibid

powers within their States but also for a world order which would permit them more scope for ordering their own economies and access to world markets.[10]

Several resolutions were enacted by the United Nations (UN) asserting the doctrine of Permanent Sovereignty Over Natural Resources and calling for the establishment of New International Economic Order, the aim of which being to ensure fairness in trade with developing countries as well as control over the of FDIs.[11] Tanzania in particular, the nationalization of the commanding heights of the Tanzanian economy was central to the implementation of *Ujamaa.* For the purpose of the nationalization exercise, economic activities were grouped into three categories: those restricted exclusively to state ownership, those in which the state had a major share and controlling power and those in which private firms may invest with or without State's participation.[12]

The international response to Tanzania's nationalization was mixed. Some Western governments, particularly the Scandinavian countries were impressed by the commitment to self-reliance and were willing to overlook the nationalization that followed the *Arusha Declaration.* Others however, were not so sympathetic. For example, three large British banks: Barclays, Standard, and National and Grindleys adopted a strategy of non-cooperation aimed at ensuring that public sector - banking in Tanzania failed. Their concern was to prevent the spread of bank nationalizations in Africa; a spread they justifiably feared would be inevitable if Tanzania's nationalized public sector banking turned out to be a success[13].

Early indications from the operations of the newly nationalized sectors were quite positive. One of the objectives of nationalization was to ensure that domestic capital generated was available for use in the country by reducing the amount of capital exported out of the country. This goal appeared to have been achieved, at least within the first five years of the nationalization process. Not only was there progressively less dependence of the Tanzanian monetary system on that of Western economies, capital outflow from the economy was significantly reduced.[14]

The Concept of Neo-Colonialism *cum* FDIs Cross Border

Although the optimum desire of developing countries was to "*restructure"* their economic and political independence for their development after decolonisation, inevitable global changes interfered. To face global economic challenges, developing countries submitted themselves under domination of the

[10] Sornarajah, M, The International Law on Foreign Investment, 2nd Ed at p.1
[11] Ibid
[12] Bonny Ibhawoh and J. I. Dibua. Deconstructing Ujamaa: The Legacy of Julius Nyerere in the Quest for Social and Economic Development in Africa, Journal of Africa Politics, Vol 8 2003 at p. 8
[13] Op cit at p.9
[14] Ibid at p.11

developed countries just as good as before their political independence. The followings are some of the hindrances which existed against realization of newly independent African States - Tanzania inclusive.

Economic cum Legal Hardships

The ability of the developing countries to exert their collective influence on shaping the law changed aligning global economic changes/fluctuation. Aids had already dried up due to global economic recession. US, as he then was the world super power, and due to evident dissolution of USSR; (*the then opposer of capitalist ideology)* triggered the open door policy-with the term "*Economic Liberalization".*[15] Lending by World Bank and IMF was either impossible or accompanied by difficult conditions[16] and thus the only affordable capital was foreign capital accruing from multinationals, available by way of FDIs[17] Developing countries began to compete with each other for the foreign investment that was the only capital available to fuel their development needs;[18] and this paved the way to FDIs in flow in the developing countries (Tanzania in particular).

The whip of International Law on Tanzanian Law

There was development of International Law specifically on "*State Responsibility"* which was introduced by Western *laissez-faire* ideas and liberal concepts of property. Undoubtedly, the international law which hitherto been developed by the capital exporting countries was also designed to tie the developing countries to the neo-liberal viewpoints.[19] Major example is the underlying principle of the "*Duty of the Host State"* to display fair and equitable treatment or good faith in its conduct towards aliens. The Law of State Responsibility, which was originally conceived for the purpose of protecting individual aliens, was subsequently extended to foreign companies and other foreign business concerns. For example, in the case of **Belgium v Spain**[20] the International Court of Justice (ICJ) stated that:

> "When a State admits into its territory foreign investments of foreign nationals, whether natural or juristic persons, it is bound to extend to them the protection of the law and assumes obligations concerning the treatment to be afforded to them."

Simply put - If African newly independent States were seeking to admit FDI investors into their territories, such States should look forward to providing for the requirements of the prospective FDIs' investors. The assertion above and a combination of many other factors was the beginning of African

[15] Sornarajah M, The International Law on Foreign Investment, at p.2
[16] These were the conditions labeled by WB and IMF as Structural Adjustment Programs (SAPs). Some of the are: Trade liberalization or lifting import and export restrictions, Increasing the stability of investment(by supplementing FDI with opening of domestic stock market, privatization of all or part of state-owned enterprises and enhancing the rights of foreign investors vis-a- vis national laws.
These conditions have been labeled the Washington Consensus to show that they are US designed desires
[17] UNCTDAD report (2004) at p.22
[18] Sornarajah, M. The International Law on Foreign Investment
[19] Ibid
[20] Barcelona Traction Case, (1964) ICJ Reports 264

States to prepare for the interests of the prospective FDIs' investors however "*unconscionable*" could appear against African themselves.

The Trigger by World Bank (WB) and International Monetary Fund (IMF)

The vigorous espousal of free market economics by WB and IMF also led to pressures being exerted on developing countries (Tanzania inclusive) to liberalise their regime on FDIs.[21] The freedom by the developing countries to decide policies on international investment to a large extent were denied by IMF and WB. The two giants and international funders advocated "*Treaty*" practices that served to bind developing countries to neo-liberal prescriptions.[22]

These international organs directed that international law or an international minimum standard should apply to foreign investments. This meant that, for all practical purposes, the law of investor countries should apply above the host countries' laws.[23] The idea by WB and IMF was by then intellectually irresistible as it carried with it a recital of a gamut that foreign investment would cause into developing countries the immediate capital formation, the creation of employment, the upgrading of infrastructure facilities and skills in technology and management and as such promote development. This triggered the desire by newly independent Tanzania to attract the abundant of FDIs.

Techniques and Struggles by FDIs for their Protection

Since foreign investors exported their capital from their home resources,[24] they would wish such resources accompanied by the protection they sufficiently believe to be favouring them. They came up with the concept of *"National Treatment."* In its clinically objective interpretation, it would require that foreign and local investors be treated in the same manner. In practice, however; a government that attempts to treat its infant industries or fledgling entrepreneurs just as it does the foreign competitors - the foreign who are endowed economically, technologically and in terms of skills; will be inviting a business upheaval, perpetual local underdevelopment or in fact the complete emasculation of local entrepreneurial acumen[25]. National Treatment therefore was designed to benefit foreign investors and their investments[26] regardless what the host country deserves to benefit from investments (*emphasis supplied)*

[21] Sornarajah, M. The International Law on Foreign Investment at p.2
[22] Ibid
[23]Surya P. Subedi: (2008) International Investment Law: Reconciling Policy and Principle at p.12
[24] Sornarajah M,: The International Law on Foreign Investment at p.8
[25]The Journal of World Investment, 2003 at p.1019.
[26] Ibid at p.1020

Surrender of Host States' Laws to FDIs Investors

The local laws were considered inferior, not well developed and / failed to meet the standards of international justice and equity. The FDI investors required the international minimum standards or rather international laws to apply on their foreign investments in host countries. The assertion was that, international law provides for the international minimum standard and all states had to accept the international minimum standard by bringing their national laws up to this standard. If a host country's legal system does not conform to such standards, capital importing States would invoke international laws to provide for protection to their citizens who are doing business abroad and sought remedy for them under the notion known as 'diplomatic protection.'

The capital exporting States would intervene on behalf of its citizens abroad and demand protection and compensation from the host States alleged to have breached the international minimum standard of protection. They fore fronted the principles concerning the treatment of aliens in international law.[27] This supplied fear against the newly independent States (and Tanzania inclusive) and thus influenced standardisation of local laws at international scale - a scale which was impossible to handle at their developmental infancy.

Tanzania's Response Towards Global Capitalist Demand

Neo-colonialism, in this paper is vowed to describe certain economic operations at the international level which have alleged similarities to the traditional colonialism of the 16th to the 19thcenturies. The contention is that world super powers had aimed to control other nations economically. That is, neo-colonialists powers employ economic, financial and trade policies to dominate less powerful countries. Critics of neo-colonialism therefore argue further that, investment by multinational corporations (FDIs) enriches few in underdeveloped countries, and causes humanitarian (as well as environmental and ecological) devastation to the populations which inhabit *'neocolonies.*' This, it is argued, results in unsustainable development and perpetual underdevelopment among the developing countries, the dependency which cultivates those countries as reservoirs of cheap labour and raw materials, while restricting their access to advanced production techniques to develop their own economies.[28]

Tanzania's Subservient towards FDIs Demand as per the Investment Legal System

Tanzania under *duress;* like other African developing countries responded to the compulsorily needs of the capitalist States by "*adopting*" and /"*enacting"* in response to what they truly desired for them to bring their capital in Tanzania and by way *of FDI treaties*. The following are some of the provisions favouring them to the detriment of Tanzania.

[27]Surya, P. Subedi (2008): International Investment Law: Reconciling policy and principle at pp 12-13
[28]http://www.thelatinlibrary.com/imperialism/notes/neocolonialism.html, accessed on 25.05.2013

Investment guarantees - (Repatriation of income)

Tanzania had guaranteed the foreign investors unconditional transfer of their income from Tanzania to somewhere they wished in the world through any authorized bank in free convertible currency.[29] This can be commercially interpreted that the capital exporting countries (and their affiliated multinationals) had succeeded to pressure loops in Tanzanian investment laws which enabled them to exploit Tanzanian resources with the aim of accumulating capital and re-invest the same in their home counties or somewhere else in the world!. It is certain that the capital outflow from Tanzania was greater than capital inflow brought in Tanzania by foreign investors.

Guarantee against expropriation - (Protection of investors' property)

By virtue of international law, investors' property was guaranteed non expropriation. Should the expropriation appear inevitable by the host State, the expropriation has to be by operation of law, supported by fair, adequate and *prompt compensation,*[30] and accompanied by the right to access the court or tribunal for fair determination of the investors' rights in the due process of acquiring the investors' property.[31] This can be interpreted as protection against the greatest terror which the capitalist faced at post- independence era during the implementation of Arusha declaration where *"taking and / expropriation"* (as they call it) was exercised as "*nationalization"*[32]. It is evident that the capital exporting countries have succeeded to pressure for compulsory statutory protection of their investments which they later referred to it as their scheme for "*protected exploitation."* And the idea was the courts which would be competent to handle investment disputes were International Courts – specifically available in the investors' home countries.

Immigration Quota

Tanzania had allowed automatic immigrant quota of up to five persons and the application of extra person (*which is impractical to deny)* to the business enterprise in investment.[33] This means Tanzania was bringing more people to accumulate the income which is to benefit the sending State by way of repatriation. Observably; the only chances which Tanzania would have benefited is the diffusion of management skills to its nationals if at all the investment in question would generate employment opportunities. By allowing the influx of foreigners; diffusion of management skills is illusionary since the senior managerial positions requiring greater skills were to be vested to foreign officials.

[29] The Tanzania Investment Act, CAP 38 RE 2002; S 21
[30] See World Bank Guidelines on the treatment of FDI's definition Article 8: Compensation is prompt if It is paid without delay…which in any case must not exceed five years from the time of taking provided that market –related interest applies to the deferred payments in the same currency
[31] Opcit, s.22
[32] Supra note at p.4
[33] The Tanzania Investment Act, CAP 38 RE 2002, s.24

Dangers of International Investment Agreements (IIAs)

Tanzania had sacrificed *(to the cost of underdevelopment)* to protect the interests of the investors. All the benefits available under the investment laws were guaranteed no amendment to the detriment of the investors enjoying them.[34] This can be interpreted exploitatively. That even at one point Tanzania realizes the adjustments under the law in which it can benefit, that chance is prior ruined. Tanzania has nothing to amend which appears to affect the benefits already available to the investors. In doing so; Tanzania had borrowed the wording: *creation of a predictable investment climate* and so Tanzania in other words was swimming in the pool of neo-exploitation.

THE ERA OF NEW NATURAL RESOURCE LAWS

It was until the government of President John Joseph Pombe Maghufuli realized that Tanzanians are progressively impoverished on their own land - the land full of natural resources when he acted against the causes. Among the actions President Magufuli has successfully implemented to alleviate poverty among the Tanzanians is to enable them have a share in their natural resources. This was achieved by enacting several laws and a number of other measures but this article will direct itself on enactment of the two laws below.

Enactment of Natural Wealthy and Resources (Permanents Sovereignty) Act, 2017

What is the law about?

This law provides for the integration of the regional and International Investment Agreements (IIAs) on the country's *"Permanent Sovereignty"* over natural wealth and resources. The law heaves onto United Nations' resolutions which recognize the right of Tanzania to assert permanent sovereign right for the purpose of exploring, exploiting and managing its natural resources. Tanzania, therefore, has resolved to fairly and equitably undertake protracted measures intended to ensure that the natural wealth and resources of the country are used for the greatest benefit and welfare of its citizen by ensuring that all arrangements or agreements made into by the government protect interests of the people and the country. Tanzania has resorted to finding necessary and comprehensive statutory means to provide for ownership and control over natural wealth and resources and to provide for the protection of permanent sovereignty over natural wealth and resources.[35]

How are the natural wealth and resources defined?

The law defines "natural wealth and resources" to mean all materials or substances occurring in nature such as soil, subsoil, gaseous and water resources, and flora, fauna, genetic resources, aquatic resources, micro-organisms, air space, rivers, lakes and maritime space, including the Tanzania's territorial sea and

[34] The Tanzania Investment Act, CAP 38 RE 2002; S.19 (2)
[35] The Preamble

the continental shelf, living and non-living resources in the Exclusive Economic Zone which can be extracted, exploited or acquired and used for economic gain whether processed or not, (s.3). Enviously, the definition has captured all the natural resources in Tanzania.

What has the law cured?

No more offering superiority to FDIs investors over citizens

The law expressly pronounces it to be unlawful to make any arrangement or agreement for the extraction, exploitation or acquisition and use of natural wealth and resources except where the interests of the People and the United Republic are fully secured and approved by the National Assembly, s. 6(1) That means the law has provided for an avenue for vetting all the contracts and all agreements that an investor is seeking I the natural resources. And the law prohibits agreements in the detriments of Tanzania and its nationals. The interests of nationals are prioritized.

No more unquestionable repatriation of income

The law has prohibited arrangements or agreements for extraction, exploitation or acquisition and use of natural wealth and resources to send back to their countries all earnings from disposal or dealings, instead such earnings shall be retained in the banks and financial institutions established in the United Republic, s. 10(1) This is unlike before where repatriations of FDIs earnings was done unquestionably. According to this law, the repatriations can still be done but in accordance to the laws of Tanzania.

No more subjection of International Investment Agreements' (IIAs') disputes to International Courts / Tribunals

The law has provided for refusal to subject IIAs' disputes to International courts and / tribunals. The law provides that, disputes over natural wealth and resources shall not be subjected in any foreign court or tribunal. More clarifying that, disputes relating / arising from extraction, exploitation or acquisition and use of natural wealth and resources shall be adjudicated by judicial bodies or other organs established in Tanzania, s.11. With that provisions of the law, there will be no legally valid agreements over natural resources exploitation that would provide for the intervention of foreign laws and / foreign judicial bodies.

The Natural Wealthy and Resources Contracts (Review and Re-Negotiation of Unconscionable Terms) Act, 2017What is the law about?

This law also provides for Tanzania's realizations of freedom over natural resources. It provides for mechanisms of reviewing and Re-negotiating "*unconscionable"* terms. The mechanism for review is

included to ensure that the terms and conditions of such arrangements or agreements are in line with the interest of the Tanzania and its people.[36]

What are the unconscionable terms according to the laws?

The law has specified "unconscionable term" to mean any term in the arrangement or agreement on natural wealth and resources which is contrary to *"good conscience"* and the enforceability of which jeopardises or is like to jeopardise the interests of Tanzania and its citizens, s.3. Meaning that, before this law is enacted, there are existed agreements and arrangements with clauses which are perceived "unfair" to Tanzania and its citizens. The enactment of this law therefore has it on demand to go back on "review" of those agreements and renegotiate for adjustments.

What has the law cured?

Investment agreements to be subject to review by Tanzanians

The law has provided for a mechanism by the Tanzanians, through the National Assembly, (where Tanzanians are represented) to review arrangements or agreements made by the Government in the natural wealth and resources and yield their recommendations. As such, Investment Agreements are subject to public scrutiny as opposed to prior conditions of confidentiality. Confidential clauses were allegedly a hindrance against the citizens' access to natural resources' agreements made by the government. The mechanism for review is included to ensure that the terms and conditions of such arrangements or agreements are in line with the interest of Tanzania and its citizens, for Tanzanians to benefit from their natural riches.

Power to amend unfavourable agreement clauses

Before this law, it was impossible to amend agreement clauses which disfavoured Tanzania. It was a requirement under IIAs in the shadow of "investment protection" no review of the agreement would have been agreed in the detriment of investors. Investors had designed clauses against any review which would adversely impact their projections. This law therefore, has paved the way for annulment of all the prior IIAs which had exploitative effects against Tanzania. Meaning that all agreements which existed before the enactment of this law are subject to review and renegotiation - all for good faith of enabling the country realize benefits from own natural resources.

Ownership of natural resources in the hands of citizens

The law has entrusted with Tanzanians the ownership of the natural resources. Moreover; it has created consciousness among the citizens on the need for collective efforts on protecting natural wealth. Not

[36] The Preamble.

only that, the law has also positively appealed for the investors' realization on the concern to go for renegotiation of all prior exploitative terms. There are a bunch of good results, *(yet to be exhausted)* - and for that reason are not in a complete package for reporting at the date of this article. A lot more will be reported in the future articles on the subject matter.

Emergence of ancillary laws in favour of natural wealth gain

The law has paved the way for amendments of some laws such as the Mining and the Investment Acts - to mention a few; and the enactment of other new complementing laws; the totality of which ensures that Tanzania and its citizens are benefiting from the natural resource wealth.

Conclusion and Policy Implications

It is important to note is that, decolonization and African nationalism processes happened sooner than the colonialists expected. Their exploitative plans had not reached the peak by the time of decolonization. The inflow of FDIs carried the ambitions of capitalist nations (capital exporters) to exploit African resources in the new forms of socio-economic and political domination as their unfinished businesses against African countries. As such, FDIs were tools and / may still be tools for impoverishment of Africa and many other LDCs, Tanzania in particular. In the absence of intellectual watch-over, FDIs wouldn't have brought about meaningful economic development in Tanzania.

FDIs are rooted by multinational corporations which have their headquarters in their developed countries and operate through subsidiaries in developing countries. The subsidiaries device their policies in their interests. Thus, multinationals come in Tanzania to serve the interests of their sending States and not generating for the interests of Tanzania. It is time Tanzania realizes that initiation of the need to benefit from natural wealth is inevitably now and it has begun in the fifth Presidency of John Joseph Pombe Magufuli. Tanzania should realize that some FDIs' ties would have been injurious to the development. All FDIs which are promoting development of permanent dependency on the central economies of the capital exporting States should be denounced. Development becomes impossible in peripheral economies unless dependency ties with the developed countries are broken. The panacea should be to go beyond and restructure IIAs for the purpose of leveling benefits between investors and host states; Tanzania in particular. However; detrimental legal framework on investment in Tanzania was enacted at times when Tanzanians knew little about investment laws, especially on FDIs. A lot of imprecisions happened on a line of despair *to beg for imperial come back*. There is no need to trace actors under whom Tanzania has befallen into detriments. Now that the loss and gain from investment operations in the country can be speculated, it is imperative for Tanzania to dismantle the unconscionable investment legal system and restructure so that the same replicate considerable benefit

from Tanzanian endowment. And this has begun by enactment of new natural resource laws; let all Tanzanians cherish the new beginning and work together to make the dreams of the country a reality.

Recommendations

The history through which Tanzania has ventured, for it to appear in the current image is unpleasant. Tanzanians need to pull together the efforts to complement the efforts which the President JPM has d towards realization of natural resources' benefits. Currently, the government of Tanzania is undergoing/implementing several reforms; especial legal reforms. Tanzanians - we don't have to sit back and watch. We need to bring forth the ideas and strategies that will positively impact on our nations' missions. More researches would be helpful on how Tanzania should move forward in this era of "deserving" a tangible share from natural resources. Tanzania, - whilst needs to achieve that, it also needs to balance it with the retention of the investors in the country. This is a call to all Tanzanians to work for the nation and endeavor the best in natural resources' investments.

References

Akisanya, A. (1987). International Protection of Foreign Direct Investments in The Third World, International and Comparative Law Quartely: Vol 36, at pp. 9-20

Ombella, J. S. (2009). Key Elements of Investment Law: An International and Tanzania Perspective: Student Manual, Mauritius

Sacerdoti, G. (2003). Bilateral Treaties and Multilateral Instruments on Investment Protection, the Journal of World Investment, Werner Publishing Company Ltd, at pp. 12-18

Sacerdoit, G. (2003). The Settlement of Foreign Investment Disputes, The Journal of World Intellectual Property: Vol 6, Geneva11- Switzerland, at pp. 42-51

Salacuse, J. W. and Sullivan N. P. (2005). Do BITS real work?: An Evaluation of Bilateral Investment Treaties and their Grand Bargain, 46 Harv. Int'l L. J 67, Harvard International Law Journal, at pp. 22-39.

Sornarajah M., (2004). The International Law on Foreign Investment, 2nd Ed, Cambridge University Press.

Sornarajah, M. (2002). The Clash of Globalisations and the International Law on Foreign Investment, University of Singapore, Research Paper No.213, Yale Law School, at pp 11-30

Tobin, J. and Ackerman S. R. (2004). Foreign Direct Investment in

Developing Countries: the effect of Bilateral Investment Treaties: Research Paper No.293, Yale Law School, at pp. 8-2

United Nations (2004), Conference on Trade and Development UNCTAD, International Investment Agreements - Key issues, New York and Geneva

United Republic of Tanzania, (URT), (1997), the Tanzania Investment Act, No. 26 of 1997, Government Printer, Dar es Salaam, Tanzania, pp. 437- 455

United Republic of Tanzania, (URT), (2010), the Tanzania Mining Act, No 14 of 2010, Government Printer, Dar es Salaam, Tanzania, pp. 1-90

United Republic of Tanzania (URT) (2018), the Mining Local Content Regulations, No. 3 of 2018, Government Printer, Dar es Salaam, Tanzania, pp. 75-116

United Republic of Tanzania (URT), (2017), the Natural Wealth and Resources Contracts (Review and Re-Negotiation of Unconscionable Terms) Act, No. 2 of 2017, Government Printer, Dares Salaam. pp. 1-11

United Republic of Tanzania (URT), (2017), the Natural Wealth and Resources Contracts (Permanent Sovereignty) Act, No. 3 of 2017, Government Printer, Dares Salaam, pp. 1-11

United Republic of Tanzania (URT), (2001) Bilateral Investment Treaties between Italy and the United Republic of Tanzania

United Republic of Tanzania (URT), (2001), Bilateral Investment Treaty between Netherlands and the United Republic of Tanzania

World Bank Guidelines, (1992), Treatment of Foreign Direct Investments