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Copper Mining Agreements in Zambia: Renegotiation or Law Reform?

John Lungu

Poverty levels in Zambia are historically associated with development in the mining sector. As long as the sector was performing well and enjoying high international prices for copper, the revenues to government were high and the government could afford the provision of, for example, public health. It is however paradoxical that in the current upturn of commodity prices, the Zambian government has not obtained sufficient revenues to enable it to provide the required public goods. Close scrutiny of the way the state-owned mining company, Zambia Consolidated Copper Mines (ZCCM), was privatised in the late 1990s reveals that the agreements made between the government and the new mining companies were lopsided. As a consequence, the government has been unable to earn revenues to the same extent as countries like Chile prompting civil society to pressure the government to renegotiate the agreements. The government has, however, chosen the path of law reform to increase the taxation on foreign-owned mining companies.

Introduction

During the 1960s and the 1970s, African development thinking was heavily influenced by a belief in African socialism: a form of rebellion from the capitalist orientation of the colonial economies. African socialism, it was envisaged, would become a vehicle through which the process of decolonisation could be fulfilled. Many countries in Africa practiced with some form of socialism even though the approaches between countries varied. Tanzania experimented with Ujaama, whilst Ethiopian socialism led to the land reforms of 1975. Zambia implemented its development programmes guided by Kaunda’s philosophy of humanism. The declines in the economies of most countries in sub-Saharan Africa in the 1980s and 1990s necessitated a paradigm shift to neo-liberal philosophies based on market economics. One condition that remained relatively unchanged is that many people on the continent still live in conditions of extreme poverty. The level of poverty and human misery is paradoxical when it is considered that the continent is endowed with abundant natural resources. Consequently, many have commented that these enormous resource endowments have proved a curse rather than a blessing (Humfreys, Sachs & Stiglitz, 2007).

The exploitation of these resources by multinational corporations has resulted in social-economic inequality, deterioration in labour and employment standards,
environmental degradation and the exclusion of the majority of the people from accessing essential social services. Thus, the relationship between socio-economic justice and natural resource exploitation raises urgent questions about the social responsibilities and obligations of both the state and the corporations.

This article briefly traces the development of the mining sector in Zambia from the colonial period. I discuss the underlying political philosophies that have guided change in the sector and focus on the mining agreements signed between the Zambian government and mining companies and their impact on mining communities. I further assess the reactions of civil society and the pressure they have brought on the government to renegotiate the agreements.

Copper Mining in the Zambian Economy

Commercial copper mining in Zambia started at the Roan Antelope Mine (Luanshya) in 1928. Since then, copper mining has dominated Zambia’s economy. Two private companies owned the copper mines: the Roan Selection Trust (RST) and the Anglo-American Corporation (AAC). The favourable world prices of copper through the 1960s and early 1970s raised the confidence of the ruling United National Independence Party (UNIP), making them promise people rapid development funded by government revenue earned by the mining sector. The rapid growth of mining would, it was expected, spur industrialisation and bring an end to poverty. The wealth earned from copper mining helped Zambia attain the middle-income country status by 1969. Out of a total population of four million in this same year, a total of 317,150 people were in formal employment. Of these, 75,546 were working in the mining sector (Central Statistical Office, 2005). Of the people working in the mining sector, 52,600 were directly employed by the two private mining companies (Lungu & Mulenga, 2005).

Because of the inertia of the mining companies in delivering substantial investment, Kaunda, following the tenets of humanism, nationalised the mines in 1969. All rights of ownership of minerals reverted to the state and the government obtained 51 per cent of shares in all existing mines. In 1982, the nationalised mining companies were consolidated to form the Zambia Consolidated Copper Mines (ZCCM). During the era of a nationalised mining industry, the government was able to direct the profits of newly nationalised copper mines towards building hospitals and schools and providing subsidies to state-owned manufacturing companies and consumers. Throughout the post-independence era and on a yearly basis, mining contributed over 50 per cent of the country’s foreign exchange requirements and over two-thirds of central government revenue (GRZ, 2005).

The copper mines historically have made significant contributions to the development of the country and the Copperbelt. For example, as early as 1929, the private mining companies provided orderly residential areas to house employees and also supplied food rations. The companies also provided hospitals and recreation facilities. Zambia Consolidated Copper Mines continued with this welfare policy which tied in with the state’s humanist developmental philosophy. It operated a ‘cradle to the grave’ welfare policy, providing nappies to the newly born and even subsidising burial arrangements for the dead. The copper mining company did not just look after its workers, it also provided services to the whole urban mining community. Major progress in terms of development was made in the first decade of independence.
Development slowed when the price of copper collapsed. Following the first oil crisis in 1974 and the collapse of copper prices, the country started borrowing in order to maintain social provision. After the second oil crisis in 1979, the country drifted into a severe debt crisis. For twenty years, the economy collapsed at an internationally unprecedented rate as copper prices fell relative to the prices of imports. Between 1974 and 1994, per capita income fell by 50 per cent, leaving the country the 25th poorest in the world (Ferguson, 1999:6). Throughout the economic crisis, the copper mining company was treated as a 'cash cow', milked without corresponding investment in machinery and prospecting ventures as had been the case before nationalisation. To compound the problem of lack of investment, the ore bodies within the existing mines could only be accessed at great depths raising the cost of production. Output also fell from a high of 750,000 tonnes in 1973 to 257,000 tonnes by 2000 (Chamber of Mines, 2005). With little copper revenue, the state could not support the social infrastructure it had created. GDP per capita also declined to less than $300 and over 80 per cent of the country’s population started experiencing extreme poverty, forcing the government to borrow for both social and economic infrastructure maintenance and balance of payments support. With massive debt the country had no choice but to adopt economic liberalisation policies designed by the World Bank and the International Monetary Fund. The country entered its first World Bank structural adjustment programme in 1983 and since then, the international finance institutions have tightly policed Zambia’s economic policies.

The economy continued to decline and by the mid-1980s, there were repeated urban food riots and industrial unrest leading to unpopularity of the ruling party UNIP and Kaunda. In 1990, the Movement for Multiparty Democracy (MMD) was formed, headed by ZCTU leader Frederick Chiluba. They swept the board in elections in 1991 (Bratton & Van de Walle, 1997; Baylies & Szeftel, 1992; see also Lungu, 1997). The MMD ran on a manifesto that promised to liberalise the economy, privatise state owned enterprises and secure a new democratic political dispensation. This election victory also ensured a return to neo-liberal thinking and market economics. In other words, this was a rejection of the socialist ideas embedded in the humanism of the Kaunda era.

The Privatisation Process: the Role of External Aid Donors

The crown jewels of the privatisation process were understood to be the copper mines. As early as 1993, Zambia’s second Privatisation and Industrial Reform Credit (PIRC II) from the World Bank required that the government study options for privatising ZCCM. A Germany Company, Kienbaum Development Services (GmbH), was contracted to assess the options and reported in April 1994, recommending that ZCCM be unbundled into five separate units (Lungu & Silengo, 1997). By 1995, the Bank (Economic Recovery and Investment Project, ERIP) and IMF (Enhanced Structural Adjustment Facility, ESAF) extended loans that demanded Zambia adopt and implement plans within the ESAF framework. The Bank repeated the demand in 1996 (Economic and Structural Adjustment Credit, ESAC II) and 1999 (Structural Adjustment Fund, SAF), as did the IMF in 1999 (Enhanced SAF) (Situmbeko & Zulu, 2004).

Throughout the process, the government sought delays for technical and political reasons and the issue became a sticking point in relations with donors, with repeated accusations of bad faith on either side (Fraser & Lungu, 2007). The Mineworkers’ Union of Zambia expressed concerns that unbundling of ZCCM into
a number of companies either would leave the least attractive assets with insecure futures, or would leave the government with significant assets on its hands. Better, they concluded, to encourage one serious investor to take on all of the liabilities and all of the facilities. The union was also concerned that introducing intra-company competition would drive down conditions of service for their members (Muchimba, 1998).

What broke the deadlock was Zambia’s qualification in 1996 to the World Bank’s Heavily Indebted Poor Countries (HIPC) initiative. This process for relief of unpayable poor country debt established frequent hurdles (most importantly the HIPC decision point and completion point) for the country to clear, each of which involved an assessment of performance by international finance institutions’ staff before debt relief was delivered. As each hurdle approached, Zambia came under pressure to push through privatisations that were more controversial. In most cases, the state stalled, tried to appease domestic interests, and then eventually went ahead, choosing debt relief over domestic politics. Throughout the privatisation period, the government was encouraged by donors to establish an ‘investor friendly’ policy regime. The most significant policy changes were enshrined in the 1995 Investment Act (reform of the Act was a condition of the World Bank’s 1993 PIRC II loan) and the Mines and Minerals Act of 1995.

The Investment Act established the Zambian Investment Centre (ZIC) to assist companies through the process of buying into the Zambian economy, as well as laying out the procedures for doing so. It provided the general incentives that applied to all investors as well as special incentives for investors in particular industries. It also provided assurances against forced acquisition of companies by the state, preventing a repeat of Kaunda’s nationalisations. The Act did away with foreign exchange controls, allowing companies to take out of Zambia, without interference, all funds in respect of dividends, principle and interest on foreign loans, management fees and other charges.

The Mines and Minerals Act of 1972, which regulated the nationalised industry was also repealed. This gave way to the Mines and Minerals Act of 1995 providing particular incentives for investors in mining. Under the Act, tax paid for copper removed from Zambia – called a ‘mineral royalty’ would be charged at the rate of 3 per cent of the net back value of the minerals produced (Mines and Minerals Act, 1995), although this was later amended to 2 per cent. The Act permitted companies to minimise their income tax returns by allowing deductions for investment in mining. It also provided relief from paying customs duties on imported machinery and equipment. The Act did not specify the amounts of these forms of relief. Instead it permitted the government to enter into ‘Development Agreements’ with specific companies, under which more incentives than the Act granted could be extended including reductions in royalty rates.

Two international consultants – Rothschild, and Clifford Chance – finally advised the Zambian government on the practical modalities of privatising ZCCM (GRZ/ZCCM Negotiating Privatisation team, 2000). They suggested that the company be privatised in two stages. In stage 1, substantial majority interests in all ZCCM assets were to be offered in a number of separate packages that would leave the Zambian state – in the form of a company called ZCCM Investment Holdings (ZCCM-IH) – as an owner of minority interests in companies controlled and managed by the incoming investors. In stage 2, the Government would then dispose of all, or a substantial part of, its share holding. These shares were to be offered for sale to the
Zambian public. Stage two has not yet been realised. The final outcome of the process was that the Zambia Consolidated Copper Mines was sold to seven different companies. These included Anglo-American Corporation (AAC) with a shareholding of 65 per cent at Konkola, the Binani Group of Companies (UK) with a shareholding of 85 per cent at Luanshya, Metorex Plc (South Africa) at Chibiluma, Anglo vaal (South Africa) which bought the Chambeshi smelter, and First Quantum (Canada) and Glencore International (Switzerland) (73.1 per cent) which bought Nkana and Mufulira mines to form Mopani. Others were the Non Ferrous Metals Company (China) at Chambeshi mine and First Quantum (Canada) at Bwana Mukubwa.

Some companies have undergone changes in ownership even though they still retain the original names. For example, Konkola Copper Mines is now owned by Vedanta resources, a company registered in London while Chambeshi Metals and Luanshya Copper mines are now owned by Enya, a company registered in Switzerland. Ownership of the copper mines has thus undergone three major phases. From their establishment to 1969, the mines were in private hands under the control of the Roan Selection Trust (RST) and the Anglo-American Corporation (AAC). From 1969 to 1997, the mines were nationalised and operated as ZCCM from 1982. They are now in private hands with many players out of the original two. The development agreements signed with these companies outline the terms under which the different mines operate.

The Mines and Minerals Act (1995) permitted the government to enter into ‘Development Agreements’ with specific companies. Under these agreements, the government could also extend more incentives than the Act granted. These documents established the terms under which the mines were sold and the rights and responsibilities of the Zambian state and the new mining companies.

The original development agreements were negotiated during the privatisation process between 1997 and 2000. Despite the Mines and Minerals Act specifying that mineral royalties should be set at 3 per cent for those holding large-scale mining licences, the rate negotiated by most mining companies was 0.6 per cent of the gross revenue of minerals produced. The agreements also allowed companies to avoid paying a good deal of corporate tax by carrying forward losses for periods of between 15 and 20 years on a ‘first-in, first-out’ basis, meaning that losses made in the first year of operations and the subsequent investment in the later years, could be subtracted in subsequent years from taxable profits. The companies were also granted deductions of 100 per cent of capital expenditure in the year in which the expenditure was incurred and were exempted from paying customs and excise duties or any other duty or import tax levied on machinery and equipment. This exemption was extended to other contracting firms importing machinery for mines development. The agreements also reduced corporation tax from the original 35 per cent to 25 per cent. Further, the government undertook not to amend any of these tax regimes after the agreement was struck, for as much as between 15 and 20 years. These ‘stability periods’ are a particularly important provision because until they expire, the terms of the Development Agreement are assumed to be legally binding and overrule any existing or future national legislation, whatever the policies of future Zambian governments. Although there is a provision that if at any time during the stability period either party feels that the other is not holding up their side of the bargain, they can refer the dispute to an international arbitration process, the legality of the development agreements remains questionable and the whole understanding remains controversial.
There has been some speculation as to what led the Zambian government to sign these agreements, which appear to be against the national interest. Economists have argued that the underlying motivation was to make Zambian mining attractive as an investment destination for foreign direct investment, coming from the background of low copper prices and loss making mines. Edith Nawakwi, the then Minister of Finance, recently stated that the copper mines were at the time making losses of up to $1 million a day and that, if these conditions continued, they would close down. The demand for privatisation, she stated, 'was like somebody is pointing a gun to your head'. She further states that the government was borrowing in order to pay salaries to ZCCM employees (BBC World Service radio programme 'Taxing Questions', programme two, 2007). To turn the mines around recapitalisation was necessary requiring huge sums of finance which the government could not raise. While this may be true, the Zambian government also came under pressure from the World Bank and the International Monetary Fund to privatise the copper mines. This was part of the conditionality set by the two international finance institutions for Zambia to qualify for debt relief. There is however a suggestion that government ministers may have benefited from these secret deals. The case of the sale of Luanshya mine to the Binani Group helps to explain this allegation. In this case it was very clear that the Binani Group had failed to operate the Luanshya mine but government was reluctant to terminate the agreement and continued paying salaries to RAMCOZ employees even when it was not government’s responsibility to do so as the company was privately (part of the Binani Group) owned. Whatever the circumstances, the government must bear the blame because after all, the Movement for Multiparty Democracy (MMD) ran on a manifesto that promised to liberalise the economy, privatise state owned enterprises and secure a new democratic political dispensation. Therefore, privatisation was a principle government policy of the time.

With all the incentives outlined above, the privatisation strategy seems to have worked in economic terms. According to Lenard Nkhata, Permanent Secretary at the Ministry of Mines, ‘Closed mines have opened up, new mines are coming up, and the existing mines that were limping are doing very well’ (Fraser & Lungu, 2007:19). This view is also held by the Mineworkers’ Union of Zambia who recognises that:

Since 1998 we have close to $1.4 billion which has gone into the mining industry, into refurbishment of plants, and purchases of spares and machinery. So one sees that privatisation addressed capitalisation, the issue of refurbishing and the issue of exploration and drilling. It has shown in increased copper production (Fraser & Lungu, 2007:19).

The mining industry’s representative body, the Chamber of Mines, also boasts that, by 2005 the companies were putting in over $350 million a year. Reflecting the new investments, production has rebounded to 500,000 tons by 2007. The Chamber of Mines further predicts that production will be as high as 800,000 tons in 2009 (Chamber of Mines, 2005). These figures are partly possible because investment has led to the opening of new mines for the first time in 25 years. The effects that these increases in copper production will have on the price have however not been estimated or studied. It is only hoped that China’s appetite for consumption of mineral resources will continue for some time to come thus maintaining at high levels the commodity prices. However, the investment boom cannot be attributed to privatisation alone. As Fraser and Lungu (2007) have shown, in the last seven years of ZCCM’s operations (1990-1996), investment in the copper mines was running around $125 million a year. Following privatisation, for the next seven years, 1997 to
2003, under the new investors, this average figure crept to $135 million. It is also important to point out that during this period, three of the seven initial investors pulled out of the country without making any significant investments. ‘The investment boom thus only started in 2004, after the world copper price explosion started’ (Fraser & Lungu, 2007:20). Thus the commodity price boom, rather than privatisation itself, has been the major incentive to increased investment and production.

The world copper price explosion started in 2004. In the intervening period, the average copper price on the London Metal Exchange was between $1,558 per tonne and $1,815. By 2006, this price had doubled to $3,684 per tonne. The price of copper per tonne mid 2008 was well over $8,000. Profits in the industry have also risen. First Quantum’s net earnings exploded from $4.6 million in 2003 to $152.8 million in 2005 (First Quantum Annual Report, 2005). Similarly, Konkola Copper Mines operating profit increased from $52.7 million in the year to 2005 to $206.3 million in 2006 (Vedanta Resources Plc Annual Report, 2006). The questions that arise from the commodity price boom are whether the new situation is also as good in development terms and whether the Zambian government has been able to collect enough revenue from the copper price explosion to enable it to improve social provision and infrastructure. I previously noted in a study with Alistair Fraser (2007) that the Zambian government has incurred losses in tax revenues through the subsidies given to the private mining companies. It has also been reported that Zambia has had the lowest mining taxes compared with other mineral-rich countries in Africa and the whole world. For example, where Chile earned a total of $8 billion from royalties in the 2005/2006 financial year, Zambia only earned $10 million (K35 billion) (Chirwa, 2008).

The Current Debate

From this discussion, it is clear that concessions provided by the government in the development agreements partly reflect the fact that the principal aim of privatisation was establishing an attractive investment environment to bring in new investment. This was prioritised over ensuring that new investors accepted responsibilities to share in the wealth that would flow from their operations. The concessions also result from the fact that Zambian negotiators found themselves in a weak position in the privatisation discussions. The government sold the mines when the price of copper was low and the company incurring year-on-year losses. This made it a buyer’s market, and the assets given away cheaply with few strings attached. Second, the World Bank pushed the government to sell the assets quickly. Potential purchasers knew this, and although the state did delay for several years, companies did not need to bargain in fear that the government might refuse altogether. Third, although the government stated that one of its objectives for the privatisation was that it should be a transparent process consistent with good order in the industry, the process was extremely secretive. There was no consultation with stakeholders or public discussion of the terms of the agreements. This weakened checks on the state negotiators, and allowed the companies to brush away any concerns the state might express about public perception of or resistance to the deals.

Whatever the weaknesses of negotiators, there is no excuse for multinational investors to blackmail one of the world’s poorest countries to provide special concessions from its national laws. Many of these companies have signed up to the Organisation for Economic Co-operation and Development (OECD) guidelines on
investment which are designed to promote good corporate citizenship. These state clearly that, 'Enterprises should refrain from seeking or accepting exemptions not contemplated in the statutory or regulatory framework related to environmental, health, safety, labour, taxation, financial incentives or other issues' (Lungu & Mulenga, 2005:47). However, the Chamber of Mines of Zambia is quite brazen about the companies' lobbying effort. They have stated that:

*The investment climate that prevailed in the country at the time was not attractive to Foreign Direct Investment (FDI) and since by necessity mining operations are long-term the new investors demanded, as a matter of prudence, for special conditions in the purchase conditions* (Chamber of Mines, 2005:12).

The economic conditions worldwide have however changed. The price of copper has risen dramatically. It has enabled civil society and the opposition political parties in Zambia to mount pressure on the government to renegotiate the development agreements. Some of the contentious issues in the development agreements are the clauses that relate to taxation and the stability periods. Surprisingly, even the World Bank is in support of the Zambian government's efforts in this direction. But it is not very clear what the Bank wants Zambia to achieve in this process. Is it that the Bank has now seen an opportunity to wean the country off its support, knowing very well that continued support to the country means providing subsidies to the private mining companies or is the Bank now convinced that the country has a credible development agenda that can be supported with resources gained from renegotiation? Whatever the case, the government at some time was in the process of constituting a team to carry out the renegotiation.

However, before this team could start the negotiations the government announced that instead of wasting time negotiating, they were simply going to change legislation that governs the operations of the development agreements: the Mines and Minerals Act of 1995 and the various statutes that govern different types of taxes. In the budget speech for the year 2008, the Minister of Finance, Ngande Magandu, indicated that he was going to propose to parliament changes to the mining fiscal and regulatory regime. He stated that the development agreements in their current form were lopsided and that it was necessary to bring about an equitable distribution of the mineral wealth between the government and the mining companies.

Why has the government hurriedly changed its perception of the mining companies when it has always defended the interests of foreign private mining firms? The underlying explanation is that the government is now in a hurry to deal with its unpopularity on the Copperbelt, Lusaka and most urban centres. It should be recalled that in the November 2006 elections, the Movement for Multiparty Democracy (MMD) lost all the urban seats on the Copperbelt and Lusaka. The MMD has also failed to unseat the opposition in all the by-elections so far held on the Copperbelt, especially Michael Sata's Patriotic Front. The Patriotic Front has campaigned on grounds of increasing mineral taxes and reducing personal taxes for the mine workers. Through these promises, they have won the support of most urban workers who consider the MMD as having sold out the country to multinational corporations and is responsible for their misery. In order to change the public perception, the government proposed a change in the fiscal regime by increasing the non-taxable threshold for personal taxes and changing the fiscal regime affecting the mining industry in the 2008 budget in the hope of improving its tainted image. The proposed fiscal regime for the mines includes:
• Increasing the corporate tax from the current 25 per cent to 30 per cent;

• Increasing the mineral royalty tax from the current 0.6 per cent to 3 per cent;

• Introducing a withholding tax on interest, royalties, management fees and payments to affiliates or sub-contractors in the mining sector at 15 per cent;

• Introducing a variable profit tax of up to 15 per cent on taxable income which is above 8 per cent of gross income;

• Introducing a windfall tax to be triggered at different price levels for different base metals. For copper, the windfall tax will be 25 per cent when the copper price is between $2.50 to $3.00 per pound or $2,500 to $3,000 per tonne; 50 per cent when the price is between $3.00 and $3.50 and 75 per cent when the price exceeds $3.50;

• Reducing capital allowances from 100 per cent currently to 25 per cent. Government also proposed to ring fence capital expenditures for new projects. These will only become deductible when the projects start production;

• The reference price on which these taxes will be based will be the price tenable at the London Metal exchange, Metal Bulletin or any other metal exchange market recognised by the Commissioner General of taxes.

These measures according to the Minister of Finance are expected to bring in additional revenues of $415 million in 2008. The issue at hand is that it is no longer morally right for the companies to pay low taxes when the situation has changed for the better.

The mining companies, on the other hand, have resisted the government proposals arguing that the measures will make mining financially unsustainable. Through the Chamber of Mines, they counter proposed that while they where agreeable to the royalty rate being raised to 3 per cent it must be graduated from 1 to 3 per cent. How this was going to be applied has not been explained. The mining companies also objected to the 25 per cent windfall tax in preference for 12.5 per cent. They also made it very clear to the parliamentary committee on estimates and revenue that they would only accept the introduction a windfall and a variable tax and not both. They further objected to the reduced capital allowance in preference for the status quo. This they said would maintain the viability of mining investments and also maintain the ability of the companies to fund further investments. While this may be true, it is important to note that the mining companies in Zambia do not want to take risks. By insisting that the capital allowance remains at 100 per cent they are simply confirming the short term perception they have of their investment despite arguing that mining is a long term investment. They want to recoup their investment in the shortest time possible.

One very important issue to note in the debate is also that the proposals and counter proposals are now being made directly to the parliamentary committee as opposed to the government renegotiating team. It appears that as a matter of strategy, the government is renegotiating with the copper mining companies through the parliamentary committee as opposed to the special team. While the Chamber of Mines maintains that they need to sit and renegotiate, by making counter proposals to the parliamentary committee, they are in actual fact negotiating. The Chamber of mines, have always maintained that the development agreements are legal contracts
and that the Zambian government can do nothing to alter them until the stability periods expire. However, by making counter proposals to the parliamentary committee they seem to have realised that the Zambian parliament has the right to legislate and that this right cannot be alienated from parliament by a contract. Thus the government has chosen the path of law reform over renegotiation. The amendments to the various laws have now been passed into law and came into effect on 1 April 2008 when the government expects the mining companies to start paying the various taxes. There is however a possibility that some mining companies may take the government to court to challenge the changes even though this position has been weakened by Konkola Copper Mines who have publicly stated that they will comply with the new tax regime.

As the government starts collecting the revenues projected, new concerns are emerging for civil society: the first concern is the requirement for good governance and transparency in the use of the resources gained from law reform. This concern stems from the fact that even though the government has been planning to collect revenues on the basis of the new tax regime, the expected revenues are not reflected in the 2008 budget. Thus the public does not know what the government plans to spend the extra revenue on. It is now being suggested that the government should actually sign up with the Extractive Industry Transparency Initiative (EITI). That, it is thought, could compel government to publish what it receives from the mining companies in terms of taxes and also to compel the mining companies to publish what they pay to the government. If this happened, civil society will be able to monitor government expenditure of the new revenue which may eventually reduce the levels of inappropriate expenditures and corruption. The second concern surrounds the need for the country to embark on a long term development agenda that should lead the country to sustained growth and development. This perspective requires Zambia to rekindle the diversification debate. This has been a long standing government policy initiative that has yielded limited results and still remains an important policy option for the Zambian government.

Zambia can also usefully learn from its previous attempts at diversification. In 1965, Southern Rhodesia (now Zimbabwe) declared independence unilaterally (UDI) from Britain. This brought to Zambia a sense of urgency to develop its local manufacturing industry and reduce import dependency on manufactures from Rhodesia. At the same time, and following Kaunda's humanist ideals, the government promulgated reforms in both the manufacturing and mining industries. The Mulungushi reforms of 1968 increased government participation in industry while the 1969 Matero reforms initiated government into the mining sector by taking over 51 per cent of shares from the mining companies. In the manufacturing sector, the government established the Industrial Development Corporation (INDECO) which utilised the revenues from copper to establish new industries. The industries established however, where dependent on imported raw materials and so most would not survive the foreign exchange shortage that followed. The enterprises established were also inward looking, trying to satisfy local demand guided by the import substitution strategy. The interaction of low copper prices in the 1970s and the 1980s and the rising oil prices created a foreign exchange problem for the country which affected the development of these industries. This situation compelled the government to engage in programmes aimed at diversifying the economy to agriculture. Limited results have been achieved from diversification even though the country's export earnings from non-traditional exports (vegetables, sugar, tobacco, cotton and flowers) have increased over time. The increase, however, is not sufficient.
to replace copper’s export earnings. The attempt at diversification although limited in scope was done through the establishment of state enterprises in the various sectors of the economy. The new wave must be spearheaded by the private sector in line with the government’s neo-liberal approach and market orientation. To involve the private sector however, requires devising an incentive structure that will attract entrepreneurship in other sectors, other than mining. The incentive structure should be supported with the revenues collected from the new tax regime. Diversification will ensure that even when the gains from copper stop flowing, there will still be revenues generated by other sectors of the economy. Diversification will also widen the employment opportunities. These concerns are likely to engage civil society for sometime to come.

Conclusions
This article has discussed the historical development of the mining sector in Zambia. Mirroring the country’s political development, the mining industry has gone through three major phases. Initially they were in private hands under two major companies: the Anglo American Corporation (AAC) and the Roan Selection Trust (RST). The copper mines were nationalised in 1969 following the tenets of Zambian humanism. During this period copper mining provided revenues which in turn were utilised for infrastructure development and social provisions as well as supporting the country’s industrialisation strategy of import substitution (ISS).The setting up of industries was done through the Industrial Development Corporation (INDECO). Because of a lack of investment in the mines and the low price of copper on the international metal markets, the copper mines started facing serious problems such that by the time of privatisation they were subsidised through government borrowing. With many non-performing industries on its hands, the Zambian government was forced through the World Bank and IMF conditionality to privatise. The privatisation of the Zambia Consolidated Copper Mines (ZCCM) was facilitated by changing the Mine and Minerals Act.

One of the principal changes in the Mines and Minerals Act (1995) was the permission of the government to enter into ‘Development Agreements’ with specific companies. Under these agreements, the government could also extend more incentives than the Act granted. These documents established the terms under which the mines were sold and the rights and responsibilities of the Zambian state and the new mining companies. The original development agreements were negotiated between 1997 and 2000. As pointed out, the development agreements signed between the Zambian government and the various mining companies were lopsided. Civil society and the opposition political parties have now spearheaded the reform debate. In addition, the government has also realised that in order to improve its tainted image of a ‘comprador state’ on the Copperbelt and most of Zambia’s urban centres, it needs to change the law in order for it to have revenues to provide the various public projects. The choice for the government has either been to renegotiate the agreements or to take the route of unilateral law reform preferring the latter. The laws are now in place to collect the appropriate revenues from the copper mines.

The experience of Zambia is also a lesson for other mineral rich countries to enter into flexible contracts that permit changes when circumstances in which contracts are signed change. Although it has been argued that government failure to sign flexible contracts were dictated by the economic and political circumstances of the
time, it is also true that good negotiators will always include a clause in any contract that permits revision should circumstances change. The major outcome of privatisation of the copper mines in Zambia has been a considerable loss of welfare for the communities as the new mining companies have followed to the letter the terms of the development agreements. Now that the law has been reformed the revenue collection from the copper mines is expected to increase. In fact for the year 2008, it is expected that the government will earn an additional $415 million in revenue from the copper mines. With the revenues from copper increasing, the country requires a well defined development agenda that can help manage negative impacts should the copper price bubble burst. In the short term, the government has to avoid the overvaluation of the local currency resulting from excessive injection of foreign currency earned from copper (the 'Dutch disease'). This will make the countries agricultural and manufactured exports dearer and so inhibit the growth of these sectors. In the longer term however, one of the policy options still available to the government is diversification of the economy to other sectors other than mining. This policy option however needs to be recreated to accommodate the private sector since government no longer participates directly in production. It will involve improving infrastructure to accommodate the growth of other sectors and also establish an incentive structure attractive to both local and foreign investors in sectors other than mining.

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