
	Global Journal of Arts Humanity and Social Sciences			
	ISSN: 2583-2034			
	Abbreviated key title: Glob.J.Arts.Humanit.Soc.Sci			
	Frequency: Monthly			
	Published By GSAR Publishers			
Journal Homepage Link: https://gsarpublishers.com/journal-gjahss-home/				
Volume- 4	Issue-12	Dec 2024	Total pages 1180 - 1188	

REVISITING TANZANIA'S SOVEREIGNTY CONTROL OVER NATURAL RESOURCE: THE LEGAL FRAMEWORK, CHALLENGES AND OPPORTUNITIES

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Abstract

Tanzania is endowed with abundant natural resources and has pursued its sovereignty over natural resources to harness resources for national development. This paper examines the legal framework governing the same in Tanzania, with a focus on key legislative instruments, policies, and international obligations. It explores the balance between promoting foreign investment and safeguarding national interests in resource management.

The analysis highlights critical challenges, including regulatory gaps, corruption, capacity limitations, and tensions arising from community expectations versus state control. Furthermore, it assesses how recent legal reforms aim to address these issues.

This Article also identifies opportunities for enhancing resource governance. These include leveraging modern technology for resource monitoring, fostering public-private partnerships, and empowering local communities through benefit-sharing arrangements. Strengthening institutional frameworks and improving enforcement mechanisms emerge as pivotal steps for sustainable resource sovereignty.

This study concludes by offering recommendations to ensure that Tanzania's legal regime aligns with its development goals while addressing challenges inherent in achieving resource sovereignty.

Keywords: Sovereignty, Legal framework, natural wealth and resources, independence and sustainable development.

Article History

Received: 11- 12- 2024
Accepted: 18- 12- 2024
Published: 20- 12- 2024

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1. Introduction

1.1 Background of Tanzania's Natural Resource Wealth

Tanzania is richly endowed with natural resources, including extensive mineral deposits, significant reserves of oil and gas, fertile agricultural land, and abundant wildlife. The mineral sector, comprising of gold, diamonds, tanzanite, and other precious metals, remains a cornerstone of the economy. Gold, in particular, positions Tanzania being one among Africa's top producers.¹ The discovery of natural gas reserves in, at Mnazi Bay, Songosongoand Mkuranga in Coastal Region, has bolstered hopes for energy

independence and economic growth. Additionally, Tanzania's vast forests and marine ecosystems contribute to its resource wealth, supporting livelihoods and biodiversity².

Despite these resources, the challenge of translating wealth into sustainable development persists. Historically, the exploitation of these resources often favored foreign interests, leaving the local population with limited benefits. This disparity underscores the

¹ The Citizen: Gold regains status as Tanzania's top export, updated on 15, 2021 at <https://www.thecitizen.co.tz/home/News.National> accessed on 04th December 2024

² TIC: Oil and Gas at <https://www.tic.go.tz/pages/oil-and-gas> Accessed on 04th December 2024



importance of an effective legal framework to ensure equitable distribution of resources and economic growth.³

Resource control is a cornerstone of national development, as it determines the extent to which a country can use its natural wealth to achieve economic independence, reduce poverty, and fund public services⁴. For Tanzania, effective management of resources is crucial in addressing pressing challenges such as unemployment, infrastructure deficits, and regional inequalities.

By asserting control over its natural resources, Tanzania seeks to strengthen its bargaining power in international investments, maximize revenue through royalties and taxes, and ensure sustainable exploitation. Resource control also has implications for national security, as mismanagement or inequitable sharing of benefits can lead to social unrest⁵.

1.2 Overview of Sovereignty and Its Relevance in Natural Resource Governance

Sovereignty, defined as the supreme authority of a state over its affairs, is a foundational principle in resource governance. In the context of natural resources, sovereignty implies the state's exclusive right to manage, regulate, and benefit from its natural wealth. This principle is enshrined in Tanzania's Constitution⁶ and reinforced by legislation such as the Natural Wealth and Resources (Permanent Sovereignty) Act, 2017⁷.

Sovereignty serves as a safeguard against external exploitation and ensures that resources are utilized in the best interest of citizens. However, its practical application requires balancing national interests with international investment obligations and adhering to global best practices⁸.

In Tanzania, sovereignty has been a central theme in legal reforms aimed at adjusting resource governance. These reforms reflect a commitment to assert greater control over strategic resources, enhance transparency, and ensure that Tanzanians benefit equitably from their natural wealth⁹.

1.3 Objectives and Scope of the Paper

³Malcom Shaw, N., *International Law, Sixth Edition*, Cambridge University Press, 2008, p.212.

⁴*Ibid*, Note 3.

⁵ Petra, G., *Sovereignty over Natural Resources-A Normative Interpretation*, Cambridge University Press 2019, pp.14-18.

⁶*The Constitution of the United Republic of Tanzania (1977 as amended from time to time)*.

⁷*The Natural Wealth and Resources (Permanent Sovereignty) Act, 2017*.

⁸Richard, J.L., *Changing Conceptions of Property and Sovereignty in Natural Resources: Questioning the Public Trust Doctrine*, *Iowa Law Review*, Volume 71 of 1986 (republished by Georgetown University in 2010), at pp.632.

⁹Emel, J., Huber, M. T. & Makene, M. H. 2011. *Extracting Sovereignty. Capital, Territory, And Gold Mining in Tanzania. Political Geography*. Pp. 30.

This paper seeks to critically analyze Tanzania's legal framework for resource sovereignty, identifying its strengths, weaknesses, and areas for improvement. Specifically, it aims to:

1. Examine the evolution of Tanzania's legal and policy framework for natural resource management.
2. Explore the challenges hindering effective resource governance, including institutional and systemic factors.
3. Highlight opportunities for leveraging resources to drive sustainable development.
4. Provide actionable recommendations to address gaps and enhance the country's capacity to manage its natural wealth.

The scope of the paper includes a review of relevant Tanzania laws and international laws shaping Tanzania's resource governance. It considers insights from comparative jurisdictions and global best practices to contextualize the Tanzanian experience. By addressing these themes, the paper contributes to ongoing discourse on resource sovereignty and sustainable development.

2.0 HISTORICAL CONTEXT OF RESOURCE SOVEREIGNTY IN TANZANIA

2.1 Pre-Colonial Era

In the pre-colonial period, natural resources such as land, water, and minerals were communally owned and managed by indigenous communities through customary laws. Resource use was guided by traditional practices that emphasized sustainability and equitable sharing. Local chiefs and clan leaders acted as custodians, ensuring that resources were not exploited beyond their regenerative capacities.¹⁰

2.2 Colonial Period

During the colonial era, Tanzania, then Tanganyika, came under German and later British rule. Colonial powers exerted significant control over the country's natural resources, prioritizing their extraction for the benefit of the colonial administration and European markets. **German Rule (1885–1918)**, The Germans introduced land alienation policies, expropriating fertile land for settler farming and mining¹¹. Local populations were often displaced, and their access to resources was restricted. **British Rule (1919–1961)**, Under British administration, the colonial government formalized resource extraction through legal mechanisms such as the Land Ordinance of 1923, which declared all land in Tanganyika as crown land. This framework stripped indigenous communities of their rights to land ownership and resource control¹².

¹⁰Debusmann, R., et. (1996). *Land Law and Land Ownership in Africa. Case Studies from Colonial and Contemporary Cameroon and Tanzania*. Bayreuth, German, Bayreuth African Studies.

¹¹ *Ibid*, Note 10

¹²Richter, R. E. 1996. *Land law In Tanganyika since the British military occupation and under the British Mandate of The League of Nations, 1916-1946*. In: , R., Arnold, S. (Eds.) *Land Law and Land Ownership in Africa*.



2.3 Post-Independence Era (1961 Onwards)

After independence in 1961, Tanzania sought to reclaim sovereignty over its natural resources. The government of Julius Nyerere implemented policies under the framework of **Ujamaa (African socialism)** aimed at nationalizing key sectors of the economy, including natural resources¹³. **Arusha Declaration of 1967**, marked a significant shift, with the government taking control of industries, banks, and large-scale agricultural enterprises. Nationalization extended to natural resources, aiming to ensure equitable distribution and prevent exploitation by foreign entities. The Villagization Program reorganized rural communities into collective villages to promote communal farming and resource sharing, though it faced implementation challenges¹⁴.

2.4 Economic Liberalization (1980s–1990s)

The economic challenges of the late 1970s and 1980s, coupled with pressure from international financial institutions, led to policy shifts towards economic liberalization. Structural Adjustment Programs (SAPs) introduced in the 1980s weakened state control over natural resources and encouraged private sector participation¹⁵. The liberalization of the mining sector in the 1990s attracted significant foreign investment but raised concerns about the government's ability to regulate resource extraction and ensure that benefits accrued to local populations¹⁶.

2.5 Recent Developments (2000s Onwards)

In recent years, Tanzania has sought to strengthen its control over natural resources through legal and policy reforms. The **Mining Act [CAP. 123 R.E 2019]**, and its subsequent amendments aim to enhance local participation and government revenue from the mining sector. The **Petroleum Act, 2015**, establishes a framework for the management of oil and gas resources, emphasizing transparency and national interests. Recent renegotiations of mining and energy contracts reflect the government's commitment to assert greater sovereignty over resource exploitation.

3.0 LEGAL AND INSTITUTIONAL FRAMEWORK GOVERNING NATURAL RESOURCES IN TANZANIA

3.1 International Laws and Resource Sovereignty

Tanzania's pursuit of resource sovereignty is shaped not only by its domestic legal and institutional framework but also by international laws and agreements. These laws provide a broader

Case Studies from Colonial and Contemporary Cameroon and Tanzania. Bayreuth, Germany: Bayreuth African Studies.

¹³ Gibbon, P. 1995a. *Mechanization of production and privatization of development in post-Ujamaa Tanzania: an introduction*. In: Gibbon, P. E. (Ed.) *Liberalized Development in Tanzania*. Uppsala: Nordiska Afrikainstitutet.

¹⁴ *Ibid.*

¹⁵ Gibbon, P. 1999. *Privatization and Foreign Direct Investment in Mainland Tanzania 1992-98*. CDR Working Paper 99(1). Copenhagen, Denmark: Center for Udviklingsforskning.

¹⁶ *Ibid*, Note 15

context for the management of natural resources while ensuring compliance with global standards.

3.1.1 United Nations General Assembly Resolution 1803 (XVII) on Permanent Sovereignty over Natural Resources (1962)

This resolution establishes the principle of permanent sovereignty over natural resources, affirming the right of states to control and utilize their resources in line with national development goals as well as emphasizing that the right of peoples and nations to permanent sovereignty over their natural wealth and resources must be exercised in the interest of their national development and well-being of the people of the State concerned¹⁷. Tanzania's Natural Wealth and Resources (Permanent Sovereignty) Act, 2017, echoes this principle, underscoring the nation's commitment to ensuring that its resources benefit its citizens. Apart from this resolution United Nations General Assembly established Resolution 626 (VII) on the Right to Exploit Natural Wealth and Resources of 1952, it affirms the right of newly independent states to exploit their natural resources freely, any attempt to intervene the exercise of this right is regarded as violation of the principles of the United Charter, including preservation of universal peace and security¹⁸.

3.1.2 The International Covenant on Civil and Political Rights (ICCPR, 1966) and the International Covenant on Economic, Social and Cultural Rights (ICESCR, 1966)

These instruments play significant roles in the discourse on resource sovereignty. Both instruments are foundational in promoting the rights of peoples to self-determination, which encompasses the ability to freely control and utilize their natural resources.

Article 1 of both covenants' states:

"All peoples have the right of self-determination. By virtue of that right, they freely determine their political status and freely pursue their economic, social, and cultural development. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic cooperation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence"¹⁹.

This provision underscores the principle that natural resources are an integral part of self-determination. It affirms the right of Tanzania, as a sovereign state, to govern its natural resources in the interests of its people, as reflected in the Natural Wealth and Resources (Permanent Sovereignty) Act, 2017.

¹⁷ United Nations General Assembly Resolution 1803 (XVII) of 14 December 1962, "Permanent Sovereignty over Natural Resources".

¹⁸ Articles 1 and 2 of the United Nations General Assembly Resolution 626 (VII) of 1952.

¹⁹ Article 1 of The International Covenant on Civil and Political Rights (ICCPR, 1966) and the International Covenant on Economic, Social and Cultural Rights (ICESCR, 1966).



3.1.3 The African Charter on Human and Peoples' Rights (ACHPR, 1981)

This is a foundational instrument that emphasizes the rights of African peoples to freely determine their development and utilize their natural resources. Resource sovereignty is firmly rooted in the ACHPR's provisions, reflecting the aspirations of African states to assert control over their wealth while promoting human rights and sustainable development.

Article 21 of the ACHPR recognizes the rights of African nations to freely dispose of their wealth and natural resources in the interest of their people²⁰.

It explicitly states:

1. *All peoples shall freely dispose of their wealth and natural resources. This right shall be exercised in the exclusive interest of the people. In no case shall a people be deprived of it.*
2. *In case of spoliation, the dispossessed people shall have the right to lawful recovery of their property as well as to an adequate compensation.*
3. *The free disposal of natural resources shall be exercised without prejudice to the obligation of promoting international economic cooperation based on mutual respect, equitable exchange, and the principles of international law.*
4. *State parties to the present Charter shall individually and collectively exercise the right to free disposal of their wealth and natural resources with a view to strengthening African unity and solidarity.*
5. *State parties to the present Charter shall undertake to eliminate all forms of foreign economic exploitation, particularly that practiced by international monopolies so as to enable their peoples to fully benefit from the advantages derived from their national resources.*

This article establishes the legal and moral foundation for African states, including Tanzania, to assert permanent sovereignty over their natural wealth and resources. It emphasizes that such sovereignty must be exercised in a manner that benefits the people while safeguarding against exploitation.

4.0 INTERNATIONAL INSTITUTION FRAMEWORK

4.1 UN General Assembly

The UN General Assembly (UNGA) is the main policy-making organ of the Organization. Comprising all Member States, it provides a unique forum for multilateral discussion of the full spectrum of international issues covered by the Charter of the United Nations. Each of the 193 Member States of the United Nations has an equal vote.²¹

²⁰ Article 21 of The African Charter on Human and Peoples' Rights (ACHPR, 1981).

²¹ At <https://www.un.org> (accessed on 07th Decemeber 2024)

The Assembly meets in regular sessions from September to December each year, and thereafter as required. It discusses specific issues through dedicated agenda items or sub-items, which lead to the adoption of resolutions, among being the resolution on sovereignty rights of every states to dispose of its wealth and its natural recourses should be respect in conformity with the right and duties of State under international Law.²²

4.2 UN Security Council

The Security Council takes the lead in determining the existence of a threat to the peace or act of aggression. It calls upon the parties to a dispute to settle it by peaceful means and recommends methods of adjustment or terms of settlement. In some cases, the Security Council can resort to imposing sanctions or even authorize the use of force to maintain or restore international peace and security.²³

The Security Council and organ of United Nations whose primary responsibility for the maintenance of international peace and security. It has 15 Members, and each Member has one vote. Under the Charter of the United Nations, all Member States are obligated to comply with Council decisions.²⁴ The decision from the council are binding to all member State by virtual of article 25 of the Charter of Unite Nations.²⁴

4.3 International court of Justice

The International Court of Justice (ICJ) is the principal judicial organ of the United Nations (UN). It was established in June 1945 by the Charter of the United Nations and began work in April 1946. The Court's role is to settle, in accordance with international law, legal disputes submitted to it by States and to give advisory opinions on legal questions referred to it by authorized United Nations organs and specialized agencies.²⁵

The Court do have jurisdiction to determine investment dispute between States and investors arising from realization of sovereignty over natural rsources

4.4 The Commission African Commission on Human and People's Rights)

The African Commission on Human and Peoples' Rights (the ACHPR) is a quasi-judicial body established under Article 30 of the African Charter on Human and Peoples' Rights (the African Charter or Charter) to promote human and people's rights and ensure their protection throughout Africa. The ACHPR became operational in 1987, and is supported by a secretariat which is based

²² S.C., Jain, *permanent Sovereignty Over Natural Resources and Nationalization in International Law*. at <https://www.jsor.org> stable accessed on 07th dec 24

²³ United National Security Council Programme of work at <https://www.britannica.com> (accessed on 07th December 2024)

²⁴ Article 25 of the Charter of United Nations, 1945

²⁵ United Nations-iLibrary at <https://www.un-ilibrary.org/contents/international> - (Accessed on 07th December 2024)

at the ACHPR's seat in Banjul, the Gambia. It was inaugurated on 12 June 1989.²⁶

The mandate of the ACHPR is spelled out in Article 45 and 46 of the African Charter: the promotion of human and peoples' rights; the protection of human and peoples' rights; among the right being enshrined on public decision regard their natural resources, the interpretation of the African Charter.

4.5 African Court on Human and Peoples Right

The African Court on Human and Peoples' Rights is a judicial body that delivers binding judgments on compliance with the African Charter. Established in 2004 and located in Arusha, Tanzania, the court hears cases from the 26 African Union (AU) member states that have ratified the Protocol establishing the Court.²⁷

The African Court on Human and Peoples' Rights ("the Court") was established by the Protocol to the African Charter on Human and Peoples' Rights ("the Charter"), which was adopted by Member States of the then Organization of African Unity in Ouagadougou, Burkina Faso in June 1998. The Protocol entered into force in January 2004, after ratification by 15 Member States.²⁸

In 2004, out of concern for the growing number of AU institutions, the AU decided to integrate the Court with the African Court of Justice, creating an African Court of Justice and Human and Peoples' Rights. The new combined court is yet not operational, but it is ultimately intended to be the principal judicial organ of the AU.²⁹

5.0 DOMESTIC LAWS

Tanzania has established a comprehensive legal and institutional framework to manage and regulate its abundant natural resources, including minerals, oil and gas, land, forests, and water. Tanzania's legal framework for natural resources is a mix of constitutional provisions, statutory laws, and regulations aimed at ensuring sustainable exploitation and equitable benefit-sharing. This includes,

5.1.1 The Constitution of the United Republic of Tanzania (1977)

The Constitution mandates every person to protect natural resources and public property, it provides the legal foundation for resource ownership and sovereignty, affirming that all resources belong to the people and are managed by the state on their behalf.

²⁶ *The African Commission on Human and peoples 'Right: at the Forefront of Advancing Human Right at*

<https://au.int/sites/default/files/documents> (Accessed on 07th December 2024)

²⁷ *Open Society Justice initiative at*

<https://www.justiceinitiatives.org/publication/african> (Accessed on 07th December 2024)

²⁸ *Ibid Note 27*

²⁹ *Open Society Justice initiative at*

<https://www.justiceinitiatives.org/publication/african> (Accessed on 07th December 2024)

27.-(1) Every person has the duty to protect the natural resources of the United Republic, the property of the state authority, all property collectively owned by the people, and also to respect another person's property.

(2) All persons shall be required by law to safeguard the property of the state authority and all property collectively owned by the people, to combat all forms of waste and squander, and to manage the national economy assiduously with the attitude of people who are masters of the destiny of their nation³⁰.

5.1.2 The Natural Wealth and Resources (Permanent Sovereignty) Act, Act No. 5 of 2017

Establishes Tanzania's permanent sovereignty over natural resources and requires resources to benefit the country's citizens. The law proclaims that the natural resources belong to the people and the state, but controlled by the government on behalf of the people and the United Republic of Tanzania³¹. This means sovereign rights to natural resources, including the right to dispose freely of natural resources within the limits of national jurisdiction; the right to manage and use natural resources for national development, and the right to regulate foreign investment, are exercised by the government on behalf of the people³² and the President held in trust on behalf of the people³³. Unlike other properties, natural resources are inalienable properties which shall always remain the state property, but vested in the President as a trustee, on behalf of the people of Tanzania. This means that mining right cannot be disposed of or otherwise transferred to any other person without government's authorization in the form of agreement or license.

5.1.3 The Natural Wealth and Resources (Permanent Sovereignty) (Code of Conduct for Investors in Natural Wealth and Resources) Regulations, 2020

The regulation was established to ensure arrangements and agreements on natural resources and related or connected business or activities are conducted in a manner consistent with the highest ethical principles and within the requirements of the Constitution and other laws³⁴.

This regulation prescribes investors' obligation to comply with laws, policies and regulations. Basically, every person bound by this Code, including legal entities, consultants, contractors, investors and their employees are required to conduct their businesses in good faith, transparently, in the general interest and for the welfare of the people of Tanzania. The investor, in particular, is required to conduct the business diligently by not

³⁰ *Article 27 of the Constitution of the United Republic of Tanzania (1977 as amended from time to time).*

³¹ *Section 4(1) and (2) of The Natural Wealth and Resources (Permanent Sovereignty) Act, Act No. 5 of 2017.*

³² *Ibid Section 5(3).*

³³ *Ibid Section 5(2).*

³⁴ *Regulation 4 of The Natural Wealth and Resources (Permanent Sovereignty) (Code of Conduct for Investors in Natural Wealth and Resources) Regulations, 2020.*



engaging in acts or omissions likely to result into corruption, unfair trade practices, conflict of interest, human rights and workers' rights violations, and compliance of provisions on non-discrimination and occupational health and safety³⁵.

5.1.4 The Natural Wealth and Resources Contracts (Review and Re-Negotiation of Unconscionable Terms) Regulations, 2020

These regulations, enacted under Tanzania's Natural Wealth and Resources (Permanent Sovereignty) Act, 2017, underscores the country's commitment to asserting resource sovereignty, 'Unconscionable term' has been defined 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 jeopardizes or is likely to jeopardize the interests of the People and the United Republic³⁶. These regulations aim to ensure that agreements governing the exploitation of natural wealth and resources serve the interests of the Tanzanian people and economy. It also, empower the government to renegotiate terms in contracts with foreign investors to ensure that resource exploitation aligns with Tanzania's national priorities and the welfare of its people.

5.1.5 The Mining Act [CAP 123 R.E 2019]

The law governs the exploration, extraction, and management of mineral resources. It provides for State ownership of all mineral resources, to mean that all mineral resources within territorial jurisdiction of Tanzania are under ownership and full control by the United Republic of Tanzania³⁷. The law also, introduced local content requirements, mandates that mining companies prioritize local employment, procurement of goods and services, and technology transfer. This requirement aims to ensure that Tanzanians benefit directly from mining activities and that economic gains remain within the country. Following amendments in 2017, the government gained the authority to renegotiate existing mining contracts, ensuring that they align with national interests and eliminate inequitable terms.

5.1.6 The Petroleum Act No. 21 of 2015

It provides the framework for upstream, midstream, and downstream oil and gas operations. Establishes the Tanzania Petroleum Development Corporation (TPDC) as the national oil company responsible for managing Tanzania's petroleum interests on behalf of the government³⁸. It was enacted to enhance transparency, accountability, and national benefit from the petroleum sector, the Act underscores the country's commitment to resource sovereignty. Section 4 of the Act unequivocally declares that all petroleum resources in their natural state are the property of the United Republic of Tanzania. This provision affirms Tanzania's sovereignty and control over its petroleum wealth, ensuring that these resources are managed for the public benefit³⁹.

5.1.7 The Land Act [CAP. 113 R.E 2019] and The Village Land Act [CAP. 114 R.E 2019]

These laws govern land ownership, tenure, and use. Classify land into general, village, and reserved land categories, with distinct rules for management⁴⁰. Emphasize community rights over village land but allow for land acquisitions for resource projects, often leading to disputes⁴¹. They also, provide a legal framework to ensure that land resources are managed sustainably and equitably, aligning with the principles of resource sovereignty. By emphasizing state ownership, community rights, and sustainable land use, these laws empower Tanzania to maintain control over its land resources while leveraging them for national development.

5.1.8 Environmental Management Act, 2004

It regulates the environmental impacts of natural resource exploitation. Also requires environmental impact assessments (EIAs) and environmental management plans (EMPs) for projects⁴². It plays a significant role in promoting resource sovereignty by ensuring that the exploitation of natural resources is environmentally sustainable and benefits present and future generations. Under Section 3, the government is tasked with ensuring that the environment and natural resources are managed in a way that meets the needs of present and future Tanzanians. This provision reinforces the principles of sovereignty over natural resources⁴³.

5.1.9 Other Key Legislations

The Forestry Act, 2002, regulates the management and conservation of forest resources⁴⁴. **The Fisheries Act, 2003**, governs the use of fisheries and aquatic resources⁴⁵. **The Water Resources Management Act, 2009**⁴⁶, Ensures equitable allocation and sustainable use of water resources.

6.0 INSTITUTIONAL FRAMEWORK

The governance of natural resources involves several institutions with specific mandates to ensure sustainable management and equitable benefit distribution. These includes the followings;

6.1.1 Ministry of Minerals

The Ministry of Minerals in Tanzania was established under Government Notice No. 49 of 2017, as part of the reorganization of government ministries. This reorganization followed the enactment of key legislation, such as amendments to the Mining Act, aimed at improving governance and control over the mineral sector. While no specific Act of Parliament directly establishes the Ministry of Minerals, its creation stems from the President's constitutional authority under Article 36(1) of the Constitution of the United Republic of Tanzania, 1977,⁴⁷ to constitute and reorganize

⁴⁰The Land Act [CAP. 113 R.E 2019].

⁴¹The Village Land Act [CAP. 114 R.E 2019].

⁴²Environmental Management Act, 2004.

⁴³ Ibid Section 3.

⁴⁴The Forestry Act, 2002.

⁴⁵The Fisheries Act, 2003.

⁴⁶The Water Resources Management Act, 2009.

⁴⁷Article 36(1) of the Constitution of the United Republic of Tanzania, 1977.

³⁵Ibid regulation 5.

³⁶ Regulation 2 of The Natural Wealth and Resources Contracts (Review and Re-Negotiation of Unconscionable Terms) Regulations, 2020.

³⁷ Section 5 of The Mining Act [CAP 123 R.E 2019].

³⁸ Section 8 of The Petroleum Act No. 21 of 2015.

³⁹ Ibid Section 4.



ministries for efficient governance. The Ministry was created to enhance the management, regulation, and development of Tanzania's mineral resources, reflecting the country's commitment to resource sovereignty and sustainable utilization of its mineral wealth.

6.1.2 Tanzania Petroleum Development Corporation (TPDC)

The Tanzania Petroleum Development Corporation (TPDC) is established as the National Oil Company⁴⁸, it manages the exploration and development of oil and gas resources and acts as the government's commercial arm in petroleum projects. The TPDC is tasked with participating in upstream, midstream, and downstream petroleum activities.

6.1.3 National Environmental Management Council (NEMC)

This institution is established under the Environmental Management Act, 2004 (EMA). Specifically, Section 16 of the Environmental Management Act, 2004 provides for the establishment of NEMC as a statutory body⁴⁹. It implements and enforces environmental regulations, Reviews and approves environmental impact assessments. It also, plays a crucial role in advancing resource sovereignty in Tanzania by ensuring that the exploitation and management of natural resources align with environmental sustainability and the nation's developmental goals.

6.1.4 Tanzania Forest Service (TFS)

TFS is a key government institution established under the Executive Agencies Act, Cap. 245 [R.E 2009], tasked with managing Tanzania's forest resources. TFS plays a significant role in promoting resource sovereignty by ensuring that the nation sustainably controls, utilizes, and benefits from its forest resources⁵⁰.

7.0 CHALLENGES IN RESOURCE SOVEREIGNTY

Tanzania's quest to achieve resource sovereignty faces several challenges that impede effective resource governance and equitable distribution of benefits. These challenges include:

7.1 Implementation Gaps

While Tanzania has enacted legislations to assert control over its natural resources, the implementation remains inconsistent due to: Regulatory bodies lack adequate resources, skilled personnel, and technical expertise to enforce laws effectively, Lengthy administrative processes hinder efficient resource management and create loopholes for non-compliance. Also, there is a lack of reliable mechanisms to assess whether resource extraction complies with legal and environmental standards⁵¹. For example;

⁴⁸ Section 8 of The Petroleum Act No. 21 of 2015.

⁴⁹ Section 16 of the Environmental Management Act, 2004.

⁵⁰ The Executive Agencies Act, [Cap. 245 R.E 2009].

⁵¹ The Extractive Resource Industry in Tanzania: Status and Challenges of the Mining Sector, Nairobi, Kenya, p.47; TANZANIA EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE (TEIT), (2014/2015) Report.

Tanzania Petroleum Development Corporation (TPDC) is responsible for overseeing the petroleum sector, but its capacity has often been questioned. Despite the discovery of vast oil and gas reserves, the lack of sufficient technical expertise and financial resources to manage these resources effectively has led to a dependence on foreign companies. These dynamic limits the country's control over its petroleum wealth.

7.2 Corruption and Governance Issues

Corruption within public institutions undermines transparency and accountability in resource management. Benefits from resource wealth are often concentrated among powerful elites, leading to inequality and social unrest. Limited public access to information on contracts, revenues, and expenditures fosters mistrust and mismanagement. Corruption and poor governance can lead to inefficient management of natural resources, resulting in revenue loss, environmental degradation, and inequitable benefit distribution⁵².

7.3 Environmental and Social Challenges

Resource extraction often results in deforestation, land degradation, and water pollution, with inadequate legal enforcement of environmental safeguards. Mining and infrastructure projects displace communities, leading to loss of livelihoods and cultural heritage. Insufficient involvement of local populations in decision-making processes exacerbates tensions between communities, the government, and investors.

7.4 Global Market Dynamics

Dependency on extractive industries makes Tanzania vulnerable to volatile global commodity prices, impacting revenues. Unequal Bargaining Power, Multinational corporations often possess greater resources and expertise, allowing them to negotiate terms that may disadvantage the country⁵³. Tanzania's dependency on gold exports is evident in the fluctuating revenue streams from mining. In 2017, the country's gold exports accounted for nearly 25% of total exports, highlighting the country's vulnerability to shifts in global demand. A significant drop in global gold demand or prices could substantially impact national income, undermining resource sovereignty⁵⁴.

7.5 Limited Regional and International Collaboration

Insufficient collaboration with neighboring countries and regional bodies hampers the development of unified policies for resource management. Global standards and practices, such as

⁵² Debates on how Tanzania is failing to benefit from arrangements in the exploitation of its natural resources, minerals and petroleum in particular are discussed in the work of MAGOGO, T. D.B (2018), Impact of Legal framework Governing Investments in Tanzania on Ensuring Maximum Benefits for the Country and Its Citizens: Mineral and Petroleum Sectors, PhD Thesis, St. Augustine University of Tanzania, 2018.

⁵³ M.Curtis, and T.A.Lissu, A Golden Opportunity?: How Tanzania is Failing to Benefit from Gold Mining (2nd Edition), Dar es Salaam, the Christian Council of Tanzania (CCT), National Council of Muslims in Tanzania (BAKWATA) and Tanzania Episcopal Conference (TEC), 2008, pp. 10, 16 and 30.

⁵⁴ Ibid.



environmental and human rights norms, sometimes clash with Tanzania's pursuit of sovereignty, creating diplomatic and legal conflicts. Tanzania's attempts to assert sovereignty over its resources are sometimes in conflict with international standards. The Tanzanite mining industry, for example, faces pressure from international human rights organizations regarding the working conditions in mines. These international standards sometimes challenge the Tanzanian government's efforts to maintain control over its resources while meeting global expectations⁵⁵.

8.0 OPPORTUNITIES FOR STRENGTHENING RESOURCE SOVEREIGNTY

Strengthening resource sovereignty is crucial for sustainable development, reducing dependence on external entities, and fostering economic growth. The following are opportunities for achieving this goal;

8.1 Policy and Legal Reforms

This can be done by developing clear, transparent, and enforceable policies to govern resource exploration, extraction, and distribution. Strengthening such frameworks can empower governments and communities to exert greater control over their resources, prevent exploitation, and maximize economic and social benefits. Also, resource sovereignty can be strengthened by learning from successful regulatory frameworks from other countries and adapt them to local contexts⁵⁶.

8.2 Capacity Building

Capacity building is essential for enabling individuals, communities, and institutions to effectively manage natural resources and exercise control over their development and utilization. By fostering technical, institutional, and community capabilities, nations can strengthen their resource sovereignty and ensure sustainable and equitable resource management. It can be done by equip local workers and institutions with skills and knowledge to manage resources effectively, also by enhancing the capabilities of government agencies to oversee resource management.

8.3 Technological Adoption

Adopting modern technologies is essential for enhancing the governance, management, and sustainable utilization of natural resources. By leveraging technological advancements, nations can optimize resource exploration, extraction, monitoring, and revenue management while minimizing environmental and social impacts. Technology adoption in resource sovereignty enabling nations to

maximize economic benefits, promote transparency, and uphold environmental sustainability⁵⁷.

8.4 Community Engagement

Community engagement is a cornerstone of effective resource management. By actively involving communities in decisions and activities related to natural resources, governments and other stakeholders can ensure equitable benefits, reduce conflicts, and promote sustainable development.

8.5 International Collaboration

International collaboration plays a role in strengthening resource sovereignty by enabling nations to share knowledge, access technologies, align policies, and secure equitable benefits from their natural resources. Effective collaboration can enhance governance, promote sustainable practices, and mitigate challenges such as cross-border resource conflicts and environmental degradation. Also, resource sovereignty can be strengthened through negotiating contracts that prioritize national interests while maintaining international partnerships.

9.0 RECOMMENDATIONS AND CONCLUSION

9.1 Recommendations

To overcome the challenges to resource sovereignty and ensure sustainable and equitable use of natural resources, several actions can be taken at the legal, institutional, and policy levels. The following recommendations aim to address the key issues identified in the analysis.

1. Provide training and resources to regulatory bodies like TPDC, NEMC, and local governments to improve enforcement and coordination in resource management.
2. Increase transparency in resource extraction and revenue management through initiatives like TEITI and public access to contracts and reports.
3. Strengthen environmental regulations to protect ecosystems and ensure that resource extraction projects adhere to sustainability standards.
4. Involve local communities in decision-making processes, ensure they benefit from resource extraction, and protect their land rights through better enforcement of the Land and Village Land Acts.
5. Regularly revise laws like the Mining Act and Petroleum Act to adapt to new challenges and ensure sustainability, equity, and environmental protection.
6. Foster cross-border resource management through regional cooperation to address shared resource challenges and promote sustainable practices.

⁵⁵Richard, J.L., *Changing Conceptions of Property and Sovereignty in Natural Resources: Questioning the Public Trust Doctrine*, Iowa Law Review, Volume 71 of 1986 (republished by Georgetown University in 2010), at pp.629.

⁵⁶Inter-Institutional Coordination in Resource Governance, *Journal of Tanzanian Public Policy*, 2019.

⁵⁷The two Presidential Committee on Mining Reports of 2017; the two Parliamentary Committee on Minerals Reports of 2017; the CAG Report of 2015/2016.



10. Conclusion

Tanzania's pursuit of resource sovereignty is crucial for achieving sustainable development and equitable wealth distribution. Despite challenges like regulatory gaps, environmental concerns, and corruption, there are significant opportunities to strengthen governance, promote transparency, and empower local communities. By revising legal frameworks, improving institutional capacity, and fostering regional collaboration, Tanzania can achieve greater control over its resources and ensure they contribute to national prosperity and environmental sustainability.

REFERENCES

1. The Constitution of the United Republic of Tanzania (1977 as amended from time to time).
2. The Natural Wealth and Resources (Permanent Sovereignty) Act, 2017.
3. The Natural Wealth and Resources Contracts (Review and Re-Negotiation of Unconscionable Terms) Regulations, 2020.
4. The Mining Act [CAP 123 R.E 2019].
5. The Natural Wealth and Resources (Permanent Sovereignty) (Code of Conduct for Investors in Natural Wealth and Resources) Regulations, 2020.
6. The Forestry Act, 2002.
7. The Fisheries Act, 2003.
8. The Petroleum Act No. 21 of 2015.
9. The Water Resources Management Act, 2009
10. The Land Act [CAP. 113 R.E 2019].
11. The Village Land Act [CAP. 114 R.E 2019].
12. The Environmental Management Act, 2004.
13. The Executive Agencies Act, [Cap. 245 R.E 2009].
14. The International Covenant on Civil and Political Rights (ICCPR, 1966) t
International Covenant on Economic, Social and Cultural Rights (ICESCR, 1966).
15. The African Charter on Human and Peoples' Rights (ACHPR, 1981).
16. Malcom Shaw, N., *International Law*, Sixth Edition, Cambridge University Press, 2008.
17. Petra, G., *Sovereignty over Natural Resources-A Normative Interpretation*, Cambridge University Press 2019.
18. Richard, J.L., *Changing Conceptions of Property and Sovereignty in Natural Resources: Questioning the*
19. *Public Trust Doctrine*, Iowa Law Review, Volume 71 of 1986 (republished by Georgetown University in 2010),
20. Emel, J., Huber, M. T. & Makene, M. H. 2011. Extracting Sovereignty. Capital, Territory, And Gold Mining in Tanzania. Political Geography.
21. Debusmann, R., et. (1996). Land Law and Land Ownership in Africa. Case Studies from Colonial and Contemporary Cameroon and Tanzania. Bayreuth, German, Bayreuth African Studies.
22. Richter, R. E. 1996. Land law In Tanganyika since the British military occupation and under the British Mandate of The League of Nations, 1916-1946. In: Debusmann, R., Arnold, S. (Eds.) Land Law and Land Ownership in Africa. Case Studies from Colonial and Contemporary Cameroon and Tanzania. Bayreuth, Germany: Bayreuth African Studies.
23. Gibbon, P. 1995a. Merchantisation of production and privatisation of development in post-Ujamaa Tanzania: an introduction. In: Gibbon, P. E. (Ed.) Liberalised Development in Tanzania. Uppsala: Nordiska Afrikainstitutet.
24. Gibbon, P. 1999. Privatisation and Foreign Direct Investment in Mainland Tanzania 1992-98. CDR Working Paper 99(1). Copenhagen, Denmark: Center for Udviklingsforskning.
25. United Nations General Assembly Resolution 1803 (XVII) of 14 December 1962, "Permanent Sovereignty over Natural Resources".
26. The United Nations General Assembly Resolution 626 (VII) of 1952.
27. The Extractive Resource Industry in Tanzania: Status and Challenges of the Mining Sector, Nairobi, Kenya; TANZANIA EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE (TEIT), (2014/2015) Report.
28. MAGOGO, T. D.B (2018), Impact of Legal framework Governing Investments in Tanzania on Ensuring Maximum Benefits for the Country and Its Citizens: Mineral and Petroleum Sectors, PhD Thesis, St. Augustine University of Tanzania, 2018.
29. M.Curtis, and T.A. Lissu, *A Golden Opportunity?: How Tanzania is Failing to Benefit from Gold Mining* (2nd Edition), Dar es Salaam, the Christian Council of Tanzania (CCT), National Council of Muslims in Tanzania (BAKWATA) and Tanzania Episcopal Conference (TEC), 2008.
30. Inter-Institutional Coordination in Resource Governance, Journal of Tanzanian Public Policy, 2019.