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A New Wave in East African Mining Governance: Motivations and Implications of Mining Act Reforms in EAC Countries

Mudan Huang

School of Marxism, Shenzhen Polytechnic University, Shenzhen, China
Email: hangmudan@szpu.edu.cn

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Abstract

In recent years, East African Community (EAC) member states have actively pursued revisions to their mining acts, aiming to enhance the sector's contribution to national economies by improving legal frameworks. This paper systematically reviews the revision processes of mining laws in EAC member states, including Burundi, Kenya, Rwanda, South Sudan, Tanzania, Uganda, and the Democratic Republic of the Congo (DRC). It analyzes key drivers of reform, such as renewed recognition of the mining economy's importance, the urgent need for foreign investment, adjustments to benefit-sharing mechanisms, and the growing emphasis on environmental protection. The study further examines the practical impacts of mining law revisions on national economic structures, foreign capital inflows, mineral exports, and environmental management. Findings indicate that while reform trajectories and outcomes vary across countries, overall revisions have provided institutional safeguards for mining development in EAC nations, while also exposing challenges in environmental oversight and local benefit-sharing. The study concludes that future reforms must prioritize effective implementation and deeper integration of mining with local economies to achieve sustainable development.

Keywords

EAC Member States, Mining Act, Amendment, Foreign Investment, Environmental Protection

1. Introduction

East Africa is rich in mineral resources, and the mining sector has long been prioritized by East African Community (EAC) member states as a potential driver of economic growth. In recent years, with the rising strategic importance of global mineral resources and the intensifying economic development needs of East African nations, countries have successively initiated revisions to their mining laws. These efforts aim to modernize legal frameworks and propel the mining industry from traditional artisanal extraction toward large-scale, standardized, and sustainable development. This paper aims to systematically review the evolution of mining law reforms across EAC member states, conduct an in-depth analysis of the underlying drivers, and assess the actual impacts of these reforms on economic development, foreign investment attraction, export growth, and environmental protection. It seeks to provide insights into the evolution of East African mining policies and their regional implications.

2. The Revision Process of Mining Acts in EAC Member States

In recent years, EAC member states have shown unprecedented interest in the mining sector. To maximize the sector's contribution to national economic growth, these countries have launched another wave of mining law reforms.

Burundi enacted a new mining act in 2013 to replace its 1976 legislation. This new act separates the mining sector from the oil and gas industry, which remains governed by existing mining and petroleum regulations until a new, independent code is adopted. The significance of the new mining act lies in repositioning the previously underdeveloped mining sector as a "priority" industry for Burundi. Historically dominated by small-scale or artisanal mining, the new legislation aims to alter this landscape by relaxing regulatory frameworks. This approach seeks to attract greater interest from large private companies and foreign investors, thereby stimulating mining sector growth and enhancing its contribution to the national economy[1].

Kenya's current Mining Act was passed by Parliament in early 2016 and promulgated by President Kenyatta in May, thereby fully repealing the 1940 version of the Mining Act. Since the colonial era of 1940, Kenya's mining and mineral sector has been governed by laws and special regulations. Over this extended period, the mineral industry failed to attract adequate investment and growth, resulting in its contribution to Kenya's GDP remaining below 1%. Indeed, the 1940 Mining Act exhibited numerous shortcomings: an outdated legal framework and regulations; mismanagement of exploration and mining land; insufficient expertise in mineral marketing and value addition; inadequate funding for industry development; environmental degradation; gender inequality and child labor; educational and human resource deficiencies; artisanal and small-scale mining (ASSM) and associated vices and disputes; and a poorly structured fiscal regime incapable of generating the revenue required for the national economy (Hanson & Mensah, 2018). Compared to the 1940 Mining Act, Kenya's new 2016 Mining Act introduces com-

[1]Burundi mining: New Code Aims To Boost Foreign Investment, https://www.tabj.co.za/african_business_news/7847.html.

prehensive new requirements regarding government participation, mineral rights establishment, environmental protection and social responsibility, online disclosure and transparency of industry information, and mineral royalty payments. These changes aim to address an outdated legal framework and regulations, access to exploration and mining land, insufficient geological data and information, mineral marketing and value addition, inadequate funding, environmental degradation, gender issues, and child labor[2].

Rwanda's new Mineral Tax Law and Mining and Quarrying Act came into effect on July 5 and July 24, 2024, respectively. Through these laws, Rwanda aims to establish a comprehensive legal framework to improve the business environment for the mining and quarrying sector, promote its sustainable development, and thereby advance the country's socioeconomic progress. The new Mining and Quarrying Act introduces national interests to strengthen the state's acquisition of mineral rights; establishes regulatory systems to enhance government oversight of related activities; clarifies illegal and criminal acts while imposing heavier penalties for criminal offenses; and adjusts tax and fee provisions to increase the attractiveness of mining investments. The new mineral tax law broadens the tax base by including platinum group metals, rare earth elements, and energy minerals within the royalty payment scope. Additionally, it introduces a new mineral export tax to encourage local processing and value addition. The tax rates are 2% for base metals, platinum group metals, and energy minerals; 3% for gemstones; 1% for rare earths; and 0.5% for gold. The new mineral tax law also specifies exemptions from mineral export taxes. Mineral samples exported for research purposes, analysis, and other inspections; processed minerals; and imported minerals (excluding gold) destined for re-export are all exempt from mineral export taxes at the point of export.

The Government of South Sudan gained independence from Sudan in 2011 and promptly enacted and implemented a new mining law in 2012. As petroleum constitutes the overwhelming majority of South Sudan's national economic revenue, one objective of enacting the 2012 Mining Law was to regulate gold mining through legislation and attract large-scale investors into the gold mining sector[3].

The revision of Tanzania's mining acts appears to be a protracted and seemingly endless process. Following independence and the formation of a coalition government, influenced by the perception that "foreign companies come only to plunder wealth," Tanzania established a state-owned mining corporation to centralize mining activities. However, this approach yielded minimal results and even led to a deterioration of the situation. By the 1970s, calls to open the mining sector and attract foreign investment grew increasingly vocal. To align with public sentiment and revitalize the mining industry, the Tanzanian government enacted a new Mining Act in 1979. Subsequently, several laws and regulations related to mining

[2]New Mining Bill in Kenya: A Directive to Regulate the Sector. 2012, 2, pp. 34-37.

[3]South Sudan hopes to pass an "attractive" mining act by Oct, https://www.defenceweb.co.za/governance/governance-governance/south-sudan-hopes-to-pass-attractive-mining-act-by-oct/.

investment were introduced, culminating in significant amendments and supplements to the Mining Act in 1989. These provisions stipulated that Tanzania's mineral resources belong to the state, and anyone may obtain government-approved mining rights. Miners are subject to taxes, including resource tax, income tax, withholding tax on dividends, and dividend remittance tax. The rates for these five taxes are as follows: 1% to 5% of the total value of extracted minerals (resource tax), 35% to 40% (income tax), 5% to 10% (dividend withholding tax), and 10% (dividend remittance tax) (Lu, 1998). Additionally, foreign enterprises may deposit up to 70% of their income in overseas banks (Lu, 1998). The 1989 Mining Act was undoubtedly highly attractive to foreign investors, but it contained numerous loopholes within the framework of resource governance, leading to its revision in 1998. The 1979, 1989, and 1998 versions of the Mining Act signaled Tanzania's bold and determined push toward liberalizing its mining system. Yet the results fell short of expectations: while foreign investment did increase and mineral exports grew steadily, the mining sector's contribution to the national economy did not substantially increase. Mining companies operating in an "enclave" model failed to establish significant linkages with other economic sectors, and environmental degradation became a prominent issue. These problems prompted Tanzania to reflect on whether its previous mining law choices were overly biased, leading to the introduction of the 2010 Mining Act. Subsequent major revisions to the 2010 Mining Act occurred in 2017 and 2019. Key amendments included raising royalty rates, curtailing the powers of the Minister of Mines, banning the export of raw minerals, and mandating that disputes be resolved through Tanzania's domestic judicial or arbitration institutions. By this point, Tanzania's expectations for mining development had shifted. Attracting foreign investment was no longer the primary objective. Instead, the government prioritized leveraging the mining sector to drive inclusive growth in the national economy. The 2017 ban on raw mineral exports, for instance, directly aimed to incentivize local beneficiation. Preliminary results are observable; for example, the establishment of several gold refining facilities and a notable increase in the export value of semi-processed minerals, though the full impact on domestic value addition requires longer-term assessment (Lange & Kinyondo, 2022). Regardless of how the Mining Act evolves, its ultimate purpose remains to promote the standardized development of the mining industry, enhance the contribution of the mining economy to the national economy, and increase revenue for the Tanzanian government[4].

Uganda was among the first East African Community nations to revise its mining legislation. The new Mining Act was promulgated and implemented in 2003, replacing the 1964 Mining Act. Compared to the previous legislation, the 2003 Mining Act introduced significant changes: It introduced provisions granting mining companies the option to enter into mineral agreements with the government. Furthermore, upon discovery of mineral deposits, the government is

[4]Tanzania: Mining Reforms Pay Off, https://www.africandiasporaleaders.com/tanzania-mining-reforms-pay-off/.

obligated to grant mining rights upon application (Wu, 1998), and to permit women to work in open-pit or underground quarries[5]. The purpose of this revision was to enhance the competitiveness of mining investments and attract more foreign capital. Uganda is currently amending its mining legislation, with one key focus being the method of granting mining rights. The plan is to replace the "first-come, first-served" approach with competitive bidding. Uganda's new Mining and Minerals Act came into effect in October 2022. Compared to the 2003 version, the new Act introduces significant revisions, including: The categories of mining rights now include medium-scale mining licenses and small-scale mining licenses, while the original local license has been replaced by a small-scale artisanal mining license. Additional functional departments and a national mining company have been established to strengthen oversight of the mineral sector. Fiscal provisions have also been adjusted, including changes to royalty allocation ratios.

The new Mining Act of the Democratic Republic of the Congo took effect on March 9, 2018, replacing the previous Mining Act of 2002. The new Mining Act refined the categories of mining rights, adding permits for artisanal mining, small-scale mining, and micro-mining. It stipulates that all mining rights categories are transferable, though the approval level for transfers has been elevated and fees have been increased. The new code also significantly strengthened local content requirements, generally raised royalty rates under the fiscal regime, and introduced a capital gains tax for the first time. A pivotal change aimed at local benefit-sharing was the mandate that 15% of mining royalties be allocated to the provincial governments and 5% to the local communities where the mining operations are based (Geenen & Hönke, 2021).

3. Analysis of Driving Factors behind Mining Act Reforms in EAC Countries

Mining reform addresses issues arising from social conflicts of interest, with its outcomes reflected in evolving policy developments. This process begins with mounting pressure on specific aspects of mineral development, followed by the emergence of problems that become focal points of interest conflicts. Subsequently, legislative and regulatory measures are implemented to enact policy solutions addressing these issues (Omalu & Zamora, 1999). Mining reform represents a societal transition from one policy solution to another, manifested most visibly through a series of changes in laws and regulations. During the process of revising mining legislation, different countries exhibit both similarities and differences, as the formation of problems and sources of pressure vary across nations, leading to uniquely tailored policy solutions. In the context of mining law revisions within the EAC member states, the following factors have profoundly influenced the reform of mining legislation in these countries.

[5]Uganda Amends Mining Act, https://allafrica.com/stories/200410261180.html.

3.1. Understanding and Level of Importance Placed on the Mining Economy

Over time, the living standards of people around the world have generally continued to improve. Nevertheless, according to the 2019 World Bank Development Indicators, Africa's per capita GDP (approximately $19,000) remains less than one-fifth of the global average ($11,300) (World Bank, 2019). Therefore, compared to other regions of the world, Africa remains a poor continent. For most African nations, significantly growing their economies and narrowing the gap with other countries is undoubtedly a crucial objective, and the mining sector is central to achieving this. Compared to Africa's traditional agriculture, the mining industry has distinct advantages: it attracts substantial international investment, requires less government funding, and generates revenue more rapidly. During the colonial era, minerals were the primary resources coveted and plundered by colonial powers from African nations, which shipped vast quantities of mineral wealth to their former rulers. Consequently, African countries have long recognized the importance of the mining economy, though this understanding has evolved gradually. Today, African nations possess a deeper understanding of the mining economy: recognizing that mineral resources belong to the nation; acknowledging that investors spend their money primarily to generate profits, while these resources are vital to Western industries; understanding that mineral resources are not infinite and must be utilized wisely; and recognizing that since mineral resources are non-renewable, efforts should focus on sustainable economic development—otherwise, it amounts to draining the pond to catch fish (Ambe-Uva, 2017). These evolving understandings and perspectives have been fairly well reflected in the revisions to mining laws across East African nations.

3.2. The Degree of Demand for Foreign Investment

Mineral resources are non-renewable and even irreplaceable. In the past, foreign investors' exploitation of these resources on the African continent was often perceived as an affront to national sovereignty and detrimental to achieving development goals through the transformation of the local resource base. The 1960s and 1970s were marked by exclusive mineral resource rights, effectively monopolized by state-owned enterprises that restricted foreign ownership and foreign investment. However, beginning in the 1980s, resource nationalism was reversed, replaced by a renewed emphasis on private sector activity. At this time, attractive geology and stable new mining policies generated substantial investment, primarily from international mining companies and occasionally from local entrepreneurs. This reversal stemmed from two factors: the failure of state-owned mining companies and stagnation in the mineral sector, coupled with the global prevalence of privatization and liberalization concepts. Behind the continent's chronic poverty lay a widespread impulse for development, progress, and improvement, and foreign investment in the mineral sector offered the optimal solution to both demands. To this day, African nations—particularly those in the EAC—maintain an insatiable appetite for foreign investment. Consequently, one objective of the EAC countries' mining act revisions is to maximize foreign investment inflows amid intensifying international competition.

3.3. Considerations regarding the Distribution of Benefits

Attracting foreign investment for mining development inevitably involves balancing the interests of multinational corporations with those of host countries. Research indicates that between 1990 and 2010, profits generated by the world's top mining companies grew three times faster than the revenues of local states. Over this decade, these mining firms amassed profits totaling $110 billion—equivalent to the combined export value of all underdeveloped African nations during the same period (G20, 2025). Moreover, Africa's mining sector remains disconnected from its national economies. Foreign companies that own and operate mines export minerals in their raw form while importing most of their mineral needs from abroad. Consequently, how to maximize the sharing of mining revenues has become a pressing issue for African nations, which are intensely deliberating and striving to find optimal solutions. During the 1980s and 1990s, African mining policy reforms focused on the state's disengagement from the mining sector and leveraging market-oriented operations to attract foreign investment, while preventing local governments from benefiting from mineral wealth. Since the early 2000s, certain developments have prompted African nations to consciously strive for gains in this domain. A defining feature of this new wave of competition for Africa's resources is the assertion of African nations' right to generate revenue from their natural resources on their own terms, emphasizing the role of the state in capturing and sharing the benefits of resource extraction at the national, subnational, and local levels (Ambe-Uva, 2017). Additionally, host countries are increasingly scrutinizing mining companies' profits to share in the rental income. The 2018 mining code of the Democratic Republic of the Congo (DRC) exemplifies this trend. As noted, it mandates that 15% of mining royalties be allocated to provincial governments and 5% to local communities. However, the practical outcome has been mixed. While this provision has theoretically increased the fiscal space for local development, reports indicate challenges in the transparent and efficient disbursement and utilization of these funds at the local level, limiting the tangible benefits perceived by affected communities (Geenen & Hönke, 2021).

3.4. Awareness and Level of Concern regarding Environmental Issues

Exploration and production activities in the mining industry inevitably cause physical damage to the environment and carry significant risks of pollution hazards. Over the past three to four decades, environmental concerns have gained prominence and are now essential considerations for mining projects. Typically, host countries must first establish a policy and administrative framework to define the overarching objectives of environmental obligations. Subsequently, governments must determine the regulatory regime to adopt, drafting or revising laws, regulations, standards, or interim agreements. Finally, governments must determine the approach to environmental oversight—whether sector-specific or comprehensive. Incorporating EIAs and environmental action plans (EAPs) into mining agreements or general legislation has become standard practice. EIAs also form the basis for mandatory environmental management compliance plans during project implementation. For EAC nations, mining-related environmental challenges are increasingly severe and cannot be ignored, while weaknesses in environmental regulation remain glaringly evident. Most developed nations possess sophisticated environmental mining regulatory frameworks, but such systems carry extremely high administrative costs and are unsuitable for the majority of African countries. This does not mean African nations are powerless in environmental regulation; they can begin by establishing environmental standards for mining activities. ECOWAS countries should establish clear environmental standards to enable proper assessment, monitoring, and remediation of any environmental degradation. Formally, these standards could be incorporated into mining laws or mineral agreements. In terms of content and duration, they should be practical, realistic, and consistently applied throughout the entire mine life cycle and rehabilitation period. The resulting environmental standards would impose clear and predictable obligations on mining investors, thereby boosting investor confidence and interest. However, despite multiple revisions to mining laws in EAC countries, environmental standards for mining activities remain undefined. Environmental concerns are primarily focused on the pre-project phase, while post-project and post-closure environmental oversight have failed to keep pace. Rwanda's 2024 Mining and Quarrying Act represents a step forward, explicitly mandating EIAs and Mine Closure Plans for all mining licenses. The law also tasks the Rwanda Mines, Petroleum and Gas Board (RMB) with monitoring compliance. However, implementation faces hurdles. For instance, while EIAs are now legally required, the capacity of the RMB to conduct thorough reviews and ongoing environmental monitoring across numerous, often remote, mining sites remains limited. This gap between law and practice is evident in persistent issues like sedimentation in water bodies due to inadequate erosion control at some mine sites, demonstrating that legislative progress alone is insufficient without robust enforcement mechanisms (Mugabo & Nsanzimana, 2023).

4. The Effects of Mining Act Reform in EAC Countries

4.1. Economic Share

Based on data released by East African Community countries in recent years, the Democratic Republic of the Congo's mining sector contributes the highest share to its GDP, with a direct contribution rate reaching 30%. The formal mining industry employs approximately 500,000 people, while artisanal mining employs 2 million workers, accounting for 10% of the national labor force. South Sudan's mining sector also contributes 15% to its GDP, making it a vital component of the country's economy. In recent years, Tanzania has accelerated its "mineral powerhouse" strategy, continuously strengthening mining development policies. This has led to steady growth in mining output value and its share of GDP. Data shows that Tanzania's mining output value increased by 8.3% year-on-year in 2024, with its GDP share rising from 3.1% in 2014 to 10.1% in 2024. Other countries, such as Kenya, Uganda, and Burundi, also place significant emphasis on their mining economies. However, mining currently accounts for only about 2% to 3% of their respective GDPs. With substantial untapped mining potential, there remains considerable room for growth in the contribution of the mining sector to their economies.

4.2. Foreign Capital Inflows

In terms of the amount of foreign investment received, the Democratic Republic of the Congo (DRC) ranks first among the EAC countries. Leveraging its abundant mineral resources, the DRC continues to attract foreign investment. According to statistics from the National Agency for the Promotion of Investments (ANAPI), over 50% of foreign direct investment has flowed into the local mining sector in recent years. United Nations data indicates that the DRC received FDI inflows totaling 1.85 billion yuan in 2022, representing a year-on-year decrease of 1%. Data from China's Statistical Bulletin on Outward Direct Investment shows that China has consistently been the top source of FDI for the past five years. In 2022, direct investment from China reached 390 million yuan, accounting for 21% of the total FDI received by the DRC during the same period. Rwanda's improved business environment in recent years has also directly benefited mining investments, with significant increases in foreign direct investment in the country. The mining sectors of Kenya and Tanzania are becoming increasingly attractive to investors. For instance, in 2022, Australian company Ivanhoe Mines invested $500 million to develop a rare earth project in Kenya. For East African Community (EAC) countries, enhancing further investment to increase the value-added output of mined minerals represents a shared need. However, while these examples show that foreign investment inflows continue, the reforms have yet to consistently catalyze the desired shift in the nature of investments—specifically, a marked increase in high-value-added processing and manufacturing projects linked to the mineral sector, as opposed to primarily extractive ventures. Thus, the overall impact of recent legal reforms on attracting the type of foreign investment that fundamentally transforms the mineral economy has been limited so far.

4.3. Export Share

Acacia Mining's gold operations in Kenya contributed $180 million in export revenue in 2020. These figures demonstrate that while the mining sector remains nascent, it has already proven its export potential, bolstering government tax revenues and foreign exchange reserves. Rwanda's mineral export earnings have surged dramatically over the past decade, rising from $71 million in 2010 to $1.1

billion in 2023. This growth stems from increased value-added activities, greater investment in mechanization, and the implementation of sustainable mining practices. The government has set a target of achieving $1.5 billion in annual mineral export revenue by 2024. According to the Central Bank of the Democratic Republic of the Congo (DRC), mineral exports accounted for a substantial 93% of the country's total exports in 2022, with key commodities including copper, cobalt, diamonds, lead, zinc, and tin. In 2016, supply disruptions in the DRC coupled with price corrections for copper and cobalt caused the share of mineral exports to plummet to 60%. In other years, this proportion has remained stable above 80%. Regarding market demand, South Sudan's mineral exports are projected to maintain steady growth in the coming years as the global economy gradually recovers and international economic cooperation intensifies. This is particularly true for strategically important commodities like oil and natural gas, whose positions in international markets are expected to further solidify.

4.4. Environmental Protection

Environmental issues present a double-edged sword for EAC nations in the mining sector, carrying both risks and opportunities for green growth. Ecological problems stemming from mining operations—including soil and water pollution, land degradation, and water contamination—continue to occur. For instance, water pollution caused by emissions from gold processing plants in Kenya has sparked community protests. Strengthening regulatory penalties and enhancing oversight remain the primary calls for action. As highlighted in Section 3.4, the incorporation of environmental clauses in new mining acts, such as in Rwanda, is a positive development. However, the effectiveness of these regulations is often hampered by implementation deficits. In the DRC, despite legal requirements for environmental management plans, artisanal and small-scale mining (ASM) continues to cause significant deforestation and mercury pollution in regions like the Lualaba province, due to insufficient monitoring and enforcement resources (BGR, 2023). This gap between policy intent and on-the-ground ecological outcomes remains a critical challenge for EAC member states.

5. Conclusion

The revision of mining acts in EAC member states represents an ongoing and complex policy adjustment process, reflecting each country's continuous exploration of balancing resource governance, foreign investment attraction, and local interests. Reviewing the revised provisions reveals a shared commitment across nations to optimize mining rights allocation, strengthen national interests, increase royalty rates, encourage local processing and value-added activities, and progressively enhance oversight of environmental and social responsibilities. While these reforms have contributed to increased mining output, foreign investment inflows, and export growth, significant shortcomings persist in environmental oversight, community engagement, and legal enforcement consistency. Moving forward, East African nations must strengthen legal implementation mechanisms, for instance, by addressing the lack of capacity for regular mine inspections in Tanzania or the weak enforcement of artisanal mining regulations in the DRC, deepen the integration of mining with national economies, and achieve the organic unity of resource development and sustainable development.

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Conflicts of Interest

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