Multinational Corporations and Natural Resources Exploitation in Africa: Challenges and Prospects

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Abstract

This paper examines the critical role multinational corporations (MNCs) continue to play in natural resource exploitation in Kenya and Africa. The paper traces the historical inception of the MNCs in Africa and discusses the imperial interests that they continue to represent in modern day Africa. This paper additionally addresses the continuing debate between proponents of MNCs and those opposed to their activities in Africa, that is, whether the MNCs mean well for Africa's development or whether they are instruments of pursuing interests adverse to the resource-rich African nations. The paper also raises questions whether African countries would be better off without the MNCs and if there are prospects of meaningful engagement of MNCs for the benefit of the host African countries.

1.0 Introduction

Multinational corporations or transnational corporations can be defined as those with operational facilities and other assets in at least one country other than its home country.[2] Given the productive capacity of these organizations, their financial resources and ability in terms of investment, establishment and distribution, they constitute genuine transnational actors in the economic domain.[3] The rise of MNCs is attributable to globalization that has facilitated a shift from distinct national economics to a global economy in which larger firms grow and dominated major sectors of the world economy.[4] Very large MNCs have budgets that exceed those of small countries. Due to their vast economic power, MNCs are able to frustrate policies of the traditional nation-state or undermine its political

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[2] John H. Dunning & Sarianna M. Lundan, *Multinational Enterprises and the Global Economy* (Edward Elgar Publishing, 2008) 5.

[3] L.T. Wells, "The Multinational Business Enterprises: What kind of Business Organization?" (1971) 25 International Organization 3, 447-464.

[4] Emma Chukwuemeka, "African Underdevelopment and the Multinationals – A Political Commentary" (August 2011) 4 Journal of Sustainable Development 4, 111.

sovereignty.[5] According to an Oxfam Report of 2017, the world's ten biggest corporations together have revenue greater than that of the government revenue of 180 countries combined.[6] According to the same Report, since 2015, more than half of the global wealth has been in the hands of the richest 1 per cent of people.[7] Typically, the richest people in the globe through the MNCs control a substantial volume of world's trade. Most critics describe MNCs presence in Africa as a form of neo-colonialism. In the exploitation of natural resources, the MNCs have continued to perpetuate the economic plunder of the colonial governments. By their utter enormous economic power, MNCs wield immense influence in global economy and politics. The aim of this paper is to examine a number of issues surrounding the relationship between MNCs and natural resource exploitation in Africa. Primarily, this paper will argue that MNCs represent a new form of economic imperialism that has resulted in further impoverishment of the African continent. The first part of this paper traces the rise of MNCs and the onset of their activities in Africa. The second part of this paper then highlights the MNCs operations in natural resource exploitation in Africa, drawing examples from different countries. The third part of this paper explores some of the tactics used by MNCs to ensure their dominance in African natural resource exploitation is maintained. The final part of this paper discusses options that African governments can adopt to enter gainful as opposed to exploitative partnerships with the MNCs in their jurisdictions.

2.0 Theory and origins of MNCs

MNCs represent large companies with operations in many countries outside the country in which they are incorporated. Since the multinational corporation is by definition equivalent to foreign direct investment, theories of foreign direct investment must account for why one country invests in another and why this investment is carried out within organizational boundaries of a firm.[8] As it became ever more evident that foreign direct investment and MNCs were not the same,

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[5] Ibid.
[6] OXFAM Briefing Paper, "AN ECONOMY FOR THE 99%: It's time to build a human economy that benefits everyone, not just the privileged few" (January 2017), 3 at https://www.oxfam.org/sites/www.oxfam.org/files/file_attachments/bp-economy-for-99-percent-160117-en.pdf accessed on 19/9/2017.
[7] Ibid.
[8] Bruce Kogut & Udo Zander, "Knowledge of the Firm and the Evolutionary Theory of the Multinational Corporation"(1993) 24 Journal of International Business Studies 4, 638.

once again the statistical data on foreign direct investment often failed to capture the fundamentals of the story of multinational enterprise.[9]

Two broad sets of theories have attempted to explain the existence of MNCs. These are, the 'macro-economic theories' which try to explain MNCs from international economics and trade point of view, and "micro economic approaches" which are based on the theories of firm and industrial organization.[10] This paper will only discuss two macro-economic theories that are relevant to this discussion.

The first theory is the Foreign Direct Investment (FDI) by MNCs as international capital flows.[11] Under this theory, it was believed that MNCs occur in countries where the return on investment is higher. This theory realises that exportation may not be the best alternative because of trade barriers, perishability, or a need to produce a product tailored to the local market.

The location theory is the second theory that explains how MNCs come to be. Under this second theory, production takes place where the factor costs for production are the lowest and where there exist raw materials, cheap labour, and untapped markets. This view also recognises that corporations prefer greater control over management, product quality, and patented processes, hence they set up local plants.[12]

Thirdly, the comparative advantage theory explains that MNCs lead to the improvement of production and exports if it is transferred as a package of capital, managerial skills and technology from an industry which has a comparative disadvantage in the investing country compared to the recipient country, thus

[9] Mira Wilkins, "The History of Multinational Enterprise" in Alan M. Rugman & Thomas L. Brewer, Oxford Handbook of International Business (Oxford Scholarship Online: November 2003) at < http://www.oxfordscholarship.com/view/10.1093/0199241821.001.0001/acprof-9780199241828-chapter-1?print=pdf> accessed 21/9/2017.

[10] Salih KUŞLUVAN, "A Review of Theories of Multinational Enterprises" (2013) 13 Dokuz Eylül Üniversitesi İktisadi ve İdari Bilimler Fakültesi Dergisi 1, 165.

[11] Ibid.

[12] Samia Raki, "Multinational Corporations (MNCs): Meaning, Origin and Growth" at < http://www.economicsdiscussion.net/multinational-corporations/multinational-corporations-mncs-meaning-origin-and-growth/20921> accessed on 20/9/2017.

contributing to the productivity and comparative advantage of the host country.[13] According to this theory, the MNCs seek to invest in and secure the production and importation of commodities which home country lacks or produces at a higher cost.[14]

2.1 Historical context of MNCs in Africa

Historically, the earliest historical origins of transnational corporations can be traced to the major colonising and imperialist ventures from Western Europe which began in the 16th century and proceeded for the next several hundred years.[15] During this period, firms such as the British East India Trading Company were formed to promote the trading activities or territorial acquisitions of their home countries in the Far East, Africa, and the Americas.[16] The companies were used explore for natural resources such as minerals and petroleum in Africa and the American colonies. The prominent examples of such companies include the Imperial British East Africa Company (IBEACO) which administered the East African Protectorate on behalf of the British government; British South Africa Company (BSACO) that exercised commercial and administrative rights in south central Africa and the Royal Niger Company in West Africa. The desire of European powers to capture and exploit African natural resources ensured the entrenchment of these companies in the colonies.

After Wold War II, MNCs from the United States dominated foreign investment activities following corporate mergers and further capital concentration.[17] Major technological advances in shipping, transport, computerisation, and communications accelerated MNCs' increasing internationalisation of investment and trade, while new advertising capabilities helped MNCs expand market

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[13] KUŞLUVAN, 167.
[14] Ibid.
[15] Jed Greer & Kavaljit Singh, "A Brief History of Transnational Corporations" (2000) Global Policy Forum, at < https://www.globalpolicy.org/empire/47068-a-brief-history-of-transnational-corporations.html> accessed on 20/9/2017.
[16] Troy Paredes, "The Importance of Corporate Law: Some Thoughts on Developing Equity Markets in Developing Economies" (2006) 19 Pac. McGeorge Global Bus. & Dev. L.J., 401.
[17] Ibid, Greer & Singh.

shares.[18] American MNC's such as General Motors and Ford Motors emerged on the world scene during this period.

Since the mid-1980s, a large rise of MNC-led foreign direct investment has occurred especially in the developing countries. Burdened by debt, low commodity prices, structural adjustment, and unemployment, governments throughout the less-industrialised world, MNCs were viewed as the embodiment of modernity and the prospect of wealth: full of technology, rich in capital, replete with skilled jobs.[19] With the 1990s and early twenty-first century privatizations, MNCs have extended their operations in public utilities (both in telecommunications and power facilities).[20] This forms the entry point of MNCs' activities in natural resource exploration in Africa. The activities of major MNCs are concentrated in the energy sector, that is, oil exploration, extraction and marketing. The next section discusses briefly some of the MNCs that engage in natural resource exploitation in Africa.

3.0 MNCs operations in Africa

Africa alone is home to about 30% of the world's mineral reserves, 10% of the world's oil, and 8% of the world's natural gas.[21] With good governance, transparent management, respect for community needs and the environment, revenues from extractive industries can have a dramatic impact on reducing poverty and boosting shared prosperity.[22] However, there is no doubt that the abundance of natural resources has not translated into national wealth for the African countries. The question then becomes, who controls and benefits from these natural resources. It is tempting to outrightly point fingers directly at the MNCs that form the dominant players in the African extractive sectors. However, regard must be had to the nature, context and complexity of the MNCs operations in African extractive sectors. From the brief historical background above, it emerges that the MNCs largely represent the interests of their predecessor colonial companies. The core characteristic of the colonial companies was the alienation of natural resources and the imposition of new forms of centralized political authority

[18] Ibid.
[19] Ibid.
[20] Ibid, Wilkins, 18.
[21] The World Bank, "Extractive Industries" (2017) at < http://www.worldbank.org/en/topic/extractiveindustries/overview> accessed 25/9/2017.
[22] Ibid.

over land and resources that previously had been controlled by more localized institutions.[23] The contextual MNCs have continued to expropriate the benefits from the natural resources.

The colonial context of this expropriation requires further discussion. Whereas natural resources were previously grounded in the communities and the public sphere, the colonial powers at once upset this paradigm by divesting the control over natural resources from the communities to the crown. Successive African governments retained this western model in their legal systems. For instance, Article 62 of the Constitution of Kenya vests all minerals and mineral oils, rivers, lakes, government forests, and wildlife in the national government to be administered by the National Land Commission.

Following such legislative protection, the administration of natural resources in most African countries is a preserve of the state machinery. Citizens play a minimal role in the management of major natural resources such as oil, gas and coal, if any. Drawing from Kenya still, any transaction that involves the grant of a right or concession for the exploitation of any natural resource of Kenya is subject to ratification by Parliament.[24] This provision mandates the Kenyan Parliament to enact legislation providing for the classes of transactions subject to ratification.[25] Kenya has made considerable progress in the extractives sector especially in oil exploration and exploitation in Turkana County. As is the norm, the companies in charge of extraction of oil in Turkana are foreign MNCs, led by Tullow Oil. The citizens hence have no say in the contract between the MNCs and the state. Thus, from the onset, those whose livelihoods depend on the activities of the MNCs are excluded from decision-making.

[23] James C. Murombedzi, "Inequality and natural resources in Africa" (World Social Science Report 2016, UNESCO) at <http://unesdoc.unesco.org/images/0024/002459/245936e.pdf> accessed 25/9/2017.
[24] Constitution of Kenya 2010, Article 71.
[25] The *Natural Resources (Classes of Transactions Subject to Ratification) Act*, No. 41 of 2016 has since been enacted to give effect to Article 71 of the Constitution of Kenya, 2010 and for connected purposes.

There is no doubt that multinational companies investing in Africa have the resources, and the responsibility, to contribute to Africa's development.[26] Why has this not been the case then? Numerous problems arise from MNCs operations in the extraction of natural resources in Africa. A number of the challenges and their root causes are subsequently discussed.

4.0 Challenges posed by MNCs in Africa

4.1 Prioritisation of projects

The projects that most MNCs undertake in a number of African countries have no clear justification with the development needs of the host states. Other than the extractives, the MNCs are often responsible for major infrastructural projects that are largely funded by debt borrowing. The international financial institutions such as the World Bank and Western donors are the major financiers of these projects. Since 1992, for instance, the Bank has approved more than $18.5 billion for oil, gas, and coal projects in twenty-five developing countries.[27] Borrowing from the IMF and the Wold Bank is normally pegged on conditions such as economic liberalisation. Ultimately, these funds end up in the budgets of the MNCs that are huge players in the African extractive scene. Thus, ultimately, the funds end up benefitting the nationalities of these MNCs.

4.2 Liberalisation of developing markets

As the world economy is opening up with a fall in regulatory barriers to foreign investment, better transport and communications, freer capital movements MNCs find it easier to invest in African countries without significant difficulties. Most African states have waived or reduced investment restrictions in a bid to attract foreign investment. This has typically led to the relaxation of regulations, working standards, environmental safeguards, community development initiatives, and human rights violations to draw in corporate entities. It has also been argued that due to this liberalisation, wealthier countries are shutting down their higher cost domestic manufacturing operations and sending them overseas to developing

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[26] Witney W. Schneidman, "Multinational Corporations and Economic Development in Africa" (July 25, 2007) at < https://www.csis.org/analysis/multinational-corporations-and-economic-development-africa> accessed on 25/9/2017.

[27] Heather Turcotte, "Slippery Security: National, International and Global Security Issues within Petroleum Production, (2002)1 ALTERNATIVES: TURKISH J. INT'L REL. 109, 133.

countries where they can take advantage of lower wages and, for example, less restrictive environmental regulations.[28] Critics of globalization such as Joseph Stiglitz have maintained that the deregulation of developing economies under the pressure from the World Bank and Western donors has negatively impacted on the development potential of these developing countries.[29]

4.3 Balance of payments problem and debt accumulation

Africa's resource-rich countries continue to experience high dependence on natural resource exports for both foreign exchange and revenues. For example, of the total increase in export values in African countries between 2000 and 2005, fuels accounted for 65 percent; manufactures, 24 percent; and food and raw materials about 5 percent each.[30] Before the first oil shock on the 1970s, the average oil-rich African country enjoyed favourable macroeconomic conditions: robust economic growth, moderate inflation, manageable fiscal deficits and external debt, and external current account surpluses.[31] The current situation in which most resource-rich African countries are plagued in conflict, foreign debt and poverty point to the origin of the problem as the proliferation of MNCs in the African extractive sector. It is frequently contended that the MNCs sup up local capital either by borrowing locally or by receipt of investment incentives.

4.4 Control over the MNCs

The operations of MNCs in developing countries are sometimes difficult to control through local law. Where the policy goals of the host nation and the MNCs clash, the host government may find itself unable to control the decision-making capacity of the company. In reality, multinational corporations not infrequently escape effective accountability for their activities, especially in those countries where regulation is weak, enforcement lax, the judicial system ineffective, the

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[28] SUNY Levin Institute, "Investment and Globalization" (2013) at < http://www.globalization101.org/uploads/File/Investment/invall.pdf> accessed on 28/9/2017.

[29] Joseph E Stiglitz, *Globalization and its Discontents* (Vol. 500. Norton: New York, 2002).

[30] AfricanBank, "Africa's Natural Resources: The Paradox of Plenty" (2007 Ch4 11/10/07) at < https://www.afdb.org/fileadmin/uploads/afdb/Documents/Publications/%28E%29%20AfricanBank%202007%20Ch4.pdf> accessed on 28/9/2017.

[31] Ibid, 102.

government corrupt, or simply inadequate.[32] The host government is thus likely to end up paying huge amounts as compensation to the MNC. This has the potential of crippling small economies. But even where none of these problems exist, in order to encourage and protect foreign investment, developing states may have to conclude bilateral investment treaties (BITs) which restrict their ability to regulate foreign investors, who can, if necessary, resort to binding arbitration in case of breach.[33] Similarly, since the MNCs have strategic assets or control in other jurisdictions, redress mechanisms becomes complex in case they are found in breach of local laws.

4.5 Collapse of local industries

MNCs compete with local firms and outdo them due to the inherent technological and capital superiority of the former. By removing local resources to the factories of their mother states MNCs often deprive the host states of additional jobs and incomes involved in processing the raw materials. The most fatal impact for host states in this respect is the collapse of local industries due to competition for raw materials, labour and markets. More often than not, the host state has a policy interest in the continuance of local industries whose main aims are not necessarily profit-making, but the promotion of employment of the citizens. MNCs main focus is on profit maximization.

4.6 Dodging of taxes

Many of the MNCs use their power, influence and connections to capture politics and ensure that the rules are written for them.[34] MNCs maximize profit in part by paying as little tax as possible in the host countries. They do this by using tax havens or by making countries compete to provide tax breaks, exemptions and lower rates.[35] If taxes are high in one jurisdiction, profits that would be subject to tax can be shifted to another tax jurisdiction through manipulation of affiliate

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[32] Patricia Birnie, Alan Boyle & Catherine Ridgewell, *International Law and the Environment* (3rd edition, Oxford University Press, 2009) 326.
[33] Ibid.
[34] Ibid, OXFAM Briefing Paper.
[35] Organisation For Economic Co-Operation And Development (OECD), "Tax Effects on Foreign Direct
Investment" (2008) at < https://www.oecd.org/daf/inv/investment-policy/40152903.pdf> accessed on 29/9/2017.

transactions.[36] In essence, companies also lobby hard for tax breaks as a reward for basing or retaining their business in African countries.[37] According to the Oxfam Report, Kenya is losing $1.1bn every year in tax exemptions for corporations, nearly twice its budget for health.[38]

4.7 Environmental concerns

MNCs operations in extracting natural resources in Africa contribute to various forms of pollution. For instance, Shell (a MNC) has been accused for being responsible for over 6.4 million litres of oil spilled into it over the last 30 years in the Niger Delta.[39] Exploitation of natural resources leads to other problems such as deforestation and desertification, air pollution, as well as the pollution of water supplies. Since host countries are at a weaker bargaining position, the blacklisting of MNCs for environmental violations becomes a challenge. The host state has to weigh the potential loss of employment and revenue and will in most cases ignore the environmental degradation from the extractive activities of MNCs.

5.0 Conclusion

This paper has highlighted the emergence, development and entrenchment of the MNCs in Africa's extractives sector. As noted in the ensuing sections, the activities of MNCs in exploitation of natural resources in Africa largely benefit the mother countries and not the host countries. Although MNCs are believed to have benefits such as the introduction of new technologies, research and development and growth in innovations, the adverse impacts of these organizations call for re-examination of their role in African economies. Solutions such as information disclosure, exemplified by the Extractive Industries Transparency Initiative (the "EITI") and the Publish What You Pay (the "PWYP") Campaign, promotes the

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[36] Frian Aarsnes & Econ Pöyry, "The taxation of Multinationals in Africa: FISCAL COMPETITION AND PROFIT REPATRIATION (including transfer pricing)" at < https://www.oecd.org/site/devaeo10/44276251.pdf> accessed on 29/9/2017.

[37] Oxfam International, "Multinational companies cheat Africa out of billions of dollars" (2015) at < https://www.oxfam.org/en/pressroom/pressreleases/2015-06-02/multinational-companies-cheat-africa-out-billions-dollars> accessed on 3/10/2017.

[38] Ibid, OXFAM Briefing Paper.

[39] Steven Pearce, "Case Study of MNC Pollution in the Third World: A comprehensive look at the environmental impact that MNCs have in the Developing World" at < https://stevenwpearce.wordpress.com/2015/06/07/case-study-of-mnc-pollution-in-the-third-world/> accessed on 3/10/2017.

publishing of corporate payments to governments enhance accountability.[40] Apart from ensuring accountability, African states must devise ways of ensuring that community participation in natural resource management takes a more meaningful role beyond provision of employment by the MNCs.

[40] Emeka Duruigbo, "The World Bank, Multinational Oil Corporations, and the Resource Curse in Africa" (2005)26 U. Pa. J. Int'l Econ. L. 1, 68.

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