TANZANIA'S LEGAL FRAMEWORK GOVERNING NATURAL WEALTH AND RESOURCES: ANALYSIS OF RESOURCE NATIONALISM FOR ECONOMIC DEVELOPMENT IN THE COUNTRY

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ABSTRACT

This paper discusses the extent to which the Tanzania's legal framework governing the natural wealth and resources uphold the resource nationalism development along with the principle of permanent sovereignty over natural resources. The study highlights the existing tightness between resource nationalism and resource liberalism in the modern global economic integration. Ideally, the study offers good scenario of resource sovereignty that can exist between countries from economic and business opportunities. In the course of discussion, the paper highlights, background and context of the resource nationalism, essential features and the international significant resolutions, agreements and their respective relevancies in the permanent sovereignty over natural resources and resource nationalism.

The paper explores further the question as to whether the endorsement of the legal framework governing natural wealth and resources in Tanzania ensures resource nationalism for economic development. Thus, the paper argues that, the endorsement of the legal framework governing natural wealth and resources in Tanzania reflects the resource nationalism development along with the permanent sovereignty of natural resources.

Additionally, the Constitution of the United Republic of Tanzania of 1977 which is an ideally a grundnorm of all other laws in the country addresses issues of natural wealth and resources governance precisely. In line to this related context, the study observes the earnest weaknesses and challenges associated in the resource nationalism, natural wealth and resource governance

sector. However, the study discusses apposite measures for resolving the existing weaknesses facing the natural wealth and resources governance in sustaining resource nationalism specifically to oil and gas industry in order to accelerate the country's development.

Keywords: Resource Nationalism, Resource Liberalism, Natural Wealth and Resources, Permanent Sovereignty over Natural Resources, National Mineral Resources Data Bank, Tanzania.

INTRODUCTION

Defining Resource Nationalism

Though the concept of resource nationalism stands to be a difficulty terminology to be clearly defined based on its involved complexities at the global level[i]. It can be instituted in a variety of natural resource sectors such as security, food, agriculture, fisheries, mining, minerals, oil and gas, climate change, sustainable development and poverty reduction[ii]. Also, it is well noted that, other scholars sought to place the resource nationalism into different categories linked to political systems and historical legacies[iii]. However, it can be defined to describe the tendency of people and governments to assert control over natural resources located in their country, or producer countries to increase control of economic activity in their natural resources sectors[iv].

In other words, the term resource nationalism is denoted as a concept used to describe the desire of the people of resource-rich countries to derive more economic benefit from their natural resources and the resolution of their governments to exercise greater control over the country's natural resource sectors concomitantly[v]. In this vein, the resource nationalism appears to be central to the state participation, which emanates from the desire of governments to assert control over natural resource assets for strategic and economic reasons[vi]. The other scholars defined the term resource nationalism as resource protectionism[vii]. It means that rich-resource country manifests desire to control the resources by various measures such as majority ownership of the shares and benefits emanated from economic industry in order to access or maximize more revenues such as in oil, gas and minerals sectors. From these descriptions we can deduce the concept of resource nationalism to signify propensity of the governments to

control their natural resources for developmental purposes of their own countries. The author of this study views that, the concept of resource nationalism does not only signify the tendency of people and governments to assert control over natural resources located in their country, or producer countries to increase control of economic activity in their natural resources sectors. However, it is characterized as a resource sovereignty administered in a particular country by through the legal framework, policies and regulatory institutions aimed at formation of autonomous and integrated economy from the benefits of natural resources located in the country.

Background and Context of the Resource Nationalism

The resource nationalism has been ignited by increasing of energy prices caused by numerous geopolitical and market conditions[viii]. The rise of resource nationalism was demonstrated by the occurrence of various forms and events over the years in the sequence of resources. The increasing of oil (energy) prices which commenced during 1970's and the changes of the world market resulted eagerness of the benefits accumulation from the natural resources to meet the demands of the resource- producing countries and their people against the other foreign countries.

It is stated that, the early resource nationalism came around 1970s with Arab oil embargo when the Arab oil-producing countries reduced exports and raised prices in retaliation for Western support of Israel in the Yom Kippur War[ix]. It brought economic consequences among the oil-producing countries and foreign countries. In this vein, it signifies that the resource nationalism enhanced to the stage of resource nationalization in numerous countries for establishment of New International Economic Order (NIEO) in 1970. The fundamental objective of NIEO was to transform the governance of the world economy to benefit more the developing nations specifically the resource- producing countries. Henceforth, NIEO intended to conclude the geopolitical process of decolonization and establishing democratic global order towards truly economic balance and between developing and developed states over the permanent sovereignty of natural resources and all other economic activities[x].

Generally, the resource nationalism arose in the second half of the 20th century, the era of decolonization[xi]. It was initiated by the oil-endowed countries in their efforts of sustaining

strategically important oil and resources. And from that period the resource nationalism movements circulated in many other areas in the globe including in Africa countries. In other words, the resource nationalism demonstrated to be a repeated phenomenon.

However, there emerged several events of resource nationalism from the decolonization period which indicated the conflicts of natural resources among the resource producing countries and other foreign countries such as the incident of inflation of energy price on oil resource emerged during 2003-2008 between the oil-rich countries and other foreign countries in West and the Middle Eastern countries in Asia and Europe.[xii]

The resource nationalism is simply grasped from the operations of economic nationalism originated from the nationalism movements of the developing nations and that of Western European countries[xiii]. The developing countries established the principles of autonomy and integration which removed the remaining foreign elements from the past period towards the decolonization and even after the post-colonial period[xiv]. It should be noted that, the greatest consequence which was left by the colonialism on its dependencies is that it could not prioritized economic integration in the way of self-sustained economic development to their colonies. The circumstance, therefore, resulted the inequitable environments and to impede spontaneous development possibilities within the communities of developing countries or former colonized countries. Thus why, the tendencies of resource nationalism to establish control and ownership of their natural resources for the benefits of the existing and future generations started to emerge among developing and developed countries.

Itagaki[xv], states that the fundamental assignment of economic nationalism in the developing countries including Tanzania is to wipe out the colonial economic legacy and prepare essential formation of their national economy by applying the principles of autonomy and integration. That is to say, there were frequent attempts by the developing countries to assert either rapidly or gradually appropriate measures of resource control through nationalisation, alien concessions and entities to fulfil their desires of self-indigenous autonomy from the resources allocated in their own territories.

As noted in this article that, the resource nationalism amounts the desire of the people of rich-resource countries to derive more economic benefit from their natural resources[xvi]. In other

way, the resource nationalism is used to represent the country's wishes on greater control of natural resources including oil, gas, and minerals in their countries. It is understood always that the state has a lawful interest of ensuring that the country and its people secure an equitable allocation of the benefits generated from the economic activities in the country. But it is also important to realize the lawful concerns of the general stakeholders within the country.

ESSENTIAL SALIENT FEATURES OF RESOURCE NATIONALISM IN DEVELOPING COUNTRIES

As indicated in this paper that, the resource nationalism is recurrent phenomena of a series of events and sequences among the resource-rich countries. It continues to take precedents in the day-to-day life in numerous developing states by expressing their desire of ownership and control of resources for the sustainable benefits of their people and their countries. The resource nationalism is associated by the following salient features:

The first salient feature of resource nationalism is the past colonialism in the developing countries[xvii]. The imperial nations imposed colonial exploitation of raw materials and other resources including minerals, gold and diamond in their colonies. The circumstance resulted colonial exploitation in the colonies and exportation of capital from which intensified suffering and economic dependency among the developing countries. There was neither consideration of infrastructural development countries nor social welfare improvement among the developing. Thus, the hostilities and horrified feelings left in the hearts of the people in developing countries made them to rise allegations and suspicious against the existing international trade cooperation of multi-international companies including oil and gas companies.

Secondly, the strong desire of utilizing available significant assets for economic development among the developing countries[xviii]. It is typical noted that, most of developing countries lack technological advancement, management capability and capital necessary for accelerating economic, social and political sectors. Providentially, they are blessed with abundant natural wealth and resources in the territories of their countries. The developing countries expected to use their natural resource in avoiding economic dependency, resource curse, poverty and other

social calamities[xix]. It was desired to result positive outcome with reflection to the peoples' living standards. Therefore, the developing countries intended to utilize their endowed natural wealth and resources as a tool to facilitate investment development for the benefit of their countries. The existence of disadvantageous investment concessions between rich resource countries and foreign countries contributed to the occurrence of hostilities, discontents and dissatisfaction over unequal distribution of profits accrued from the operation natural oil and gas industry and other natural resource investment[xx].

Moreover, the resource nationalism is characterized with "love-hate syndrome"[xxi]. As pointed out that, the resource nationalism is complex emotional quality. It signifies an extremely expression of economic, political and psychological aggression, frustration and displeasure, hence it associated with various and different attributes. Itagaki, describes the love aspect as a significant concept associated to the economic determination, and the hate aspect is associated with political determination[xxii]. The concept can be expressed simply that, the development of natural resources through foreign investment is highly recognized with consideration of the benefits acquired which facilitate the economic development of countries[xxiii]. In this way, poverty reduction, accessibility of social necessities, increasing of income and employment opportunities, transfer of technology and the foreign income are nourished in the country. On other side, it is undesirable from the political perspective over the national prestige specifically on the equal and adequate amount of revenues collected from the natural resource sectors in relations to the national economic in addressing the country's population demands[xxiv]. In tracing the tendencies of trigger tension of "love" and "hate" over the benefits and costs, there will always be tightness in the trade of natural resources between the economic growth and political status.

In a nutshell, the resource nationalism is earmarked to be complex emotional superiority desires of the rich-resource countries to have sovereignty and utilize their natural resources according to their own plans for the benefits of their countries and people rather than foreign nations. Thus, the rich-resource countries expected to have equal distribution of benefit emanated from the resources, provide measures of restitution for and reduce the historical exploitation gap of natural resources and establishing measures to diversify sustainable economic development.

RESOURCE NATIONALISM VIS-À-VIS RESOURCE LIBERALISM SYSTEM IN MANAGING NATURAL WEALTH AND RESOURCES

As specified in this study that, the resource nationalism signifies propensity of the governments to control their natural resources for developmental purposes of their own countries. The resource nationalism premised along with the principle of permanent state sovereignty over its natural resources (PSNR). The principle of PSNR is effectively utilized by the resource-endowed countries including Tanzania as their economic instrument to ensure the ownership and control of their robust endowed natural wealth and resources benefit the people of their respective countries in the transnational or integrated world economy. However, the resource liberalism is denoted as a term which usually advocates free and open market for the country's exploitation, production, development and uses of natural wealth and resources at the global trade and economy[xxv]. In other words, the resource liberalism is an economic concept that encourages free trade under the auspices of the world economic integration and cooperation supported by the World Trade Organization and international communities such European Union[xxvi]. Kilangi[xxvii] detects that, the trade liberalism can be identified by numerous other names including resource privatism, investment liberalism, resource globalization, pro-investment approach, as well as neo-liberalism.

The resource nationalism and resource liberalism under the principle of permanent state sovereignty over its natural wealth and resources arrangement can be distinguished in numerous ways including the following:

First and foremost, both resource nationalism and resource liberalism tend to emphasise 'rights and duties side respectively'[xxviii]. Under the resource nationalism, it is accepted that, the country has the right to manage the process of development, processing and marketing of the country's natural resources, or to adjust the import of foreign capital and decide on consumption of the capital for the objective of exploiting their natural wealth and resources. The approach can be executed by either undertaking national legislations or making rules upon their national vision and demand for the benefit of their people and country. Nevertheless, the resource liberalism approach necessitates the duty to a country which undertakes national legislations or rules to comply with international laws, mutual investment contracts. On top of

that, the country is necessitated to approve multilateral instrument to fulfil the declarations of the concluded commercial agreement and implementation of arbitration[xxix].

Secondly, the objective of resource nationalism is to ensure the prosperity of the control and ownership of natural wealth and resources belongs to the nation and its people. In this circumstance, it amounts that, the sovereignty of resources allocated in the country should be effectively utilized for the best interests of the current and future generations in the country. However, under the resource liberalism, the main focus for the management and benefits collected from the investment of natural wealth and resources is extended at international level. That is to say, the exploitation of natural wealth and resources under resource liberalism is championed by the intervention of global market forces and trade[xxx].

Thirdly, most of the time, the resource nationalism is embraced by the resource-endowed countries in monopolizing their endowed natural wealth and resources like as Tanzania for the benefit of their people and the countries in particular. The resource-endowed countries exercise resource nationalism for numerous factors including regaining their title and economic sovereignty. However, the resource liberalism is embraced by majority of developed countries including European and American countries. It is spearheaded through international organizations such World Trade Organization and World Bank[xxxi].

Moreover, the resource liberalism relies on market forces to provide the economic opportunities and social supports. In this way, it may result adversity for majority of the people in the country and that it may lead to the concentration of richness in a comparatively limited number of hands of the people with little to invest in the country's economy. Whereas, the resource nationalism depends on the outlined principle that, the productions of the natural wealth and resources allocated in the country should be disbursed to the majority of the people in the country in order to benefit the country and its people at large.

Though, the resource nationalism and resource liberalism unanimously share distinguished features as specified above, however on the other side, both terms are primarily crafted in the right of self-determination intending to strengthen economic sovereignty and encouraging international co-operation among developed and developing countries. The development of

resource nationalism and resource liberalism contributed by the application of international principle of permanent sovereignty over natural wealth and resources occasioned the tension between the resource-rich countries and other less resource-rich countries in the world.

INTERNATIONAL RESOLUTIONS AND THEIR RELEVANCIES IN PERMANENT SOVERIGNTY OVER NATURAL RESOURCES AND RESOURCE NATIONALISM IN TANZANIA

Considerably that the principle of permanent sovereignty over natural resources (PSNR) is qualified to be international principle applicable to advocate the needs and mandates of ownership and control of natural wealth and resources endowed in the country to be utilized for the best interests of people and their territory[xxxii]. Conceptually, the principle of permanent sovereignty over natural resources banned the defilement of foreign intervention and domination of the right emanated from the use of natural wealth and resources in resource-endowed countries. The principle is indicated to originate and developed after the World War II period (1940s)[xxxiii].

A part from the principle of PSNR, the resource nationalism is associated along with the economic nationalism where by the resource-rich states assert the tendencies of control and ownership of natural wealth and resources endowed to benefit the people and the countries[xxxiv]. In this context, most of developing countries and other resource-endowed countries established the principles of monopoly and integrations of their natural wealth and resources from the foreign economic domination. Therefore, both resource nationalism and the principle of permanent sovereignty over natural resources are highly interconnected each other and in some other instances they share the same significant attributes.

Magogo[xxxv] identifies that Tanzania is a signatory of numerous international resolutions that govern investment of huge natural wealth and resources projects including petroleum and minerals. The attempt of recognizing the international resolutions and agreements signifies obedience of the international law and democratic sense of governance of natural wealth and resources in the country.

On top of that, the constitution of Tanzania recognizes the international resolutions and agreements as asserted periodically by the United Nations in the world[xxxvi]. Constitutionally, the state authority of Tanzania is duty bound to safeguard public properties by ensuring protection of the property owned individually, collectively and ensuring respect of another person's property[xxxvii].

Likewise, the laws governing of natural wealth and resources recognize the application of international resolutions over permanent state sovereignty over natural wealth and resources. For example, section 4(3) of the Natural Wealth and Resources (Permanent Sovereignty) Act of 2017[xxxviii] stipulates the effectiveness of international agreements over the permanent sovereignty over natural wealth and resources to the people of Tanzania and their country. The international resolutions and agreements applicable in Tanzania include among others, the United Nations General Assembly Resolution 523 (VI) of 12 January, 1952, the Resolution 626 (VII) of 21 December 1952, the Resolution 1314 (XIII) of 12 December 1958, the Resolution 1515 (XV) of December 1960, the Resolution 1803 (XVII) of 14 December 1962, the Resolution 2158 (XXI) of 6 December, 1966, the Resolution 2692 (XXV) of 11 December 1970, and the Resolution 3281 of December, 1974[xxxix].

The international resolutions assert free and beneficiation exercise of sovereignty of people and their nations over the natural resources to be mutually respected[xl]. It means that, the resolution put emphasis that there should be equally treatment to the people and their country over the exploitation and disposition of their natural wealth and resources allocated in their nation.

Additionally, the international resolutions proclaim the international economic co-operation should be used to further independent national development[xli]. In this vein, the resolution highlights the importance of respecting the sovereignty over natural resources that the international economic co-operation should be managed to foster independent national development of developing countries. Also, the international resolutions declare various unacceptable activities over natural wealth and resources to be unlawful in the eyes of the principles of Charter of the United Nations[xlii]. The fact is that such activities hinder the development of international co-operation and destabilize peace and order.

The international resolutions articulate good faith under foreign investment agreements[xliii]. It is stated that, the foreign investment agreements should be entered by consent between the sovereign states without any kind of intimidation. In this context, it means that, the sovereign states are required to respect each other on the investment cooperation in realizing the natural resources are the national heritage of the resource-endowed country. Therefore, they should be utilized in the way of fostering development of the people and their country.

The Natural Wealth and Resources Contracts (Review and Re-Negotiation of Unconscionable Terms) Act, 2017[xliv] recognizes the international resolutions concluded by the United Nations. For instance, section 4(4) of the Act stipulates effectiveness for the assertion of permanent sovereignty over natural resources by the people and their United Republic. This context signifies that, an utmost good faith and fair deal over the investment of natural wealth and resources there shall be considered under every arrangement and agreement entered between Tanzania and other investor, entity or extractive company. However, in the course of investment arrangement or agreement, the best interests of the people of Tanzania are given highly priority[xlv]. In other words, it means that, the people of the country are regarded to have inalienable rights over the natural wealth and resources allocated in their country.

In concluding the descriptions above, the relevancy of the international resolutions under the permanent sovereignty over natural resources and resource nationalism are countersigned to the maximum level. The international resolutions occasionally asserted by the United Nations General Assembly observed to emphasize the right of people and nations to permanent sovereignty over their natural wealth and resources to be exercised for, and in the interests of national development and welfare of the people of the respective state. Similarly, the constitution and other principal legislations governing natural wealth and resources in Tanzania appear to stipulate the provisions relating to the imposition of responsibility of the state authority over the natural wealth and resources, and ensure that the interests of the people and the United Republic are well protected for the benefit of the current and future generations.

RESOURCE NATIONALISM DEVELOPMENT IN TANZANIA

Context of Nationalization and Liberalization of State Control in Tanzania

History indicates that, the Peoples' Republic of Zanzibar and the Republic of Tanganyika merged to form a union namely the United Republic of Tanzania on 26th April, 1964[xlvi]. And the late Mwalimu Julius K. Nyerere became the first President of the United Republic of Tanzania. However, the philosophy of socialism ideology was proclaimed by the late Mwalimu Nyerere when he was the first President of the former Tanganyika in 1962 to reject capitalist methods of economic exploitation including ownership of land and expropriation of the country's natural resources for the betterment of the people's welfare[xlvii]. The socialism principles and norms since then, they are conformed and publicly applicable in economic, politics and social disciplines in Tanzania. The version of socialism intended to build the national self-reliance through the creation of farm villages and nationalization of factories, plantations, banks as well as private companies[xlviii]. The socialism ideology was implemented through the Arusha Declaration commenced in 1967[xlix]. The commercial banks, industries and insurance firms were nationalized. However, the private owners of such firms and industries were assured full compensation in return for the act of nationalization[l].

Solomon, views the socialism ideology proclaimed in Tanzania led to a complete stagnation of the natural resources including mining sector and the deterioration of the mining commercial specifically during 1970s[li]. Solomon's argument focuses that Tanzania intended to weaken foreign investment calmly. However, the author of this academic article views differently that, though the ideology consisted of mistakes and failures in some implementation approaches but it was very much significant and adequate fruitful in the sense that it enabled public ownership of the means of production and exchanges, encouraged community hard working and self-reliance, transform economic development and reduce economic dependency, facilitate democracy, equality and strengthening freedom within and outside Tanzania specifically to the Southern African countries[lii].

However, later on Tanzania adopted liberalization approach of economic development during the reign of the former President Ali Hassan Mwinyi in 1980s[liii]. Tanzania continued to take numerous measures of liberalizing her economy in ensuring the degree of benefit to her people.

The liberalization of trade and other economic sectors took place under the Structural Adjustment of Economic Recovery Programme and Economic Social Action Programme devised by International Monetary Fund (IMF) during 1980s[liv]. Tanzania affianced in foreign exchange and investment by opening up the country to international banks and introducing unified foreign exchange rate and free market economy[lv]. Typical examples are the enactment of Tanzania Investment Act intended to make provisions for investment, provide favourable conditions for investors and all other related matters in Tanzania[lvi], Mining Act intended to make provisions for prospecting for minerals, mining and dealing in minerals related matters[lvii], and the Mineral Policy of Tanzania[lviii]. The formulation of the policy among other things, intended to demonstrate the vision of the government to have strong, efficient and profitable mining industry for the benefit of the people. It envisages that, the mineral industry should contribute significantly towards industrial development, employment and other social necessities of the people in the country[lix].

The efforts of economic reformation were undertaken for the purpose of country's development specifically to transform the country from economic stagnation which was contributed among others by the decline of the gold commercial during 1970s[lx].

Despite of the previous measures undertaken to liberalize the Tanzania economy on natural wealth and resources specifically on the extractive industry by establishing legal, policy and institutional frameworks in the country to liberalize the mines to increase the degree of benefit to its people and government. Still there are displeasure and dissatisfaction feelings from the public that the intended objectives are not yet achieved to the maximum level rather than contributing less degree of benefit to the community members of Tanzania[lxi]. There are increasing public claims that the country has not been benefiting from taxes required to be collected from the Multinational Oil, Gas and Mineral Companies.[lxii]

In a nutshell, the nationalization of Tanzania natural resources managed to put the natural wealth and resources together in the hands of the Tanzanians through their state sovereignty[lxiii]. Though there were some hindering factors in the process of nationalization such as lower level of technology, inadequate fund to run the extractive industry and other economic sectors but

the nationalization significantly contributed to the growth of national economy and people standards of living.

On the other side, the subsequent liberalization of the extractive industries accelerated the growth of the sector, increasing of the foreign earnings and employment opportunities in the industry. However, a number of high levels of discontents and conflicts arose in the liberalization of the extractive industry such as the conflicts between indigenous artisanal miners against foreign multinational extractive companies and even between the governments against the foreign multinational extractive companies over the level of benefits contributed to the state and the people of Tanzania from the respective extractive industry.

TANZANIA'S LEGAL FRAMEWORK GOVERNING NATURAL WEALTH AND RESOURCES

An Overview

Tanzania managed to take numerous and strategically measures to affirm that the natural resources allocated in the country are managed appropriately and for the benefits and profit of the current and future generations of Tanzanians[lxiv]. In this sequence, the Constitution[lxv], the new legislations[lxvi] and regulations[lxvii] of indigenisation were enacted in ensuring that natural resources owed in the country are harvested and utilized effectively for the objective of accelerating the economic recovery and development for the benefit of the local people in the country.

i. *The Constitution of the United Republic of Tanzania, 1977*

The term Constitution signifies the rules and practices that determine the composition and functions of the organs of central and local government in a state and regulate the relationship between the individuals and the state[lxviii]. Generally, the constitution is classified into two major categories namely written and unwritten constitutions. Most states adopt fundamental written constitutions including Tanzania. However, the constitution of the United Kingdom is largely unwritten to the significant extent of common law rules[lxix]. Sinani, defines the term constitution to mean a set of rules which governs a nations state act[lxx]. Since the constitution lays down

government's legitimacy to the administration and defines the powers conferred upon it, hence the constitution can simply be defined as a supreme legal and political act.[lxxi] From the descriptions enumerated above, we can simply clarify that, the term constitution denotes as the mother law of all laws in the land. It defines the roles, powers, structures of different entities within a state and stipulates basic rights and responsibilities of citizens. The ordinary entities of the state are usually understood as the executive, legislature and judiciary.

The attributes of resource nationalism are well captured under the Constitution of the United Republic of Tanzania[lxxii]. The Constitution stipulates an obligation to every individual in protecting natural resources of the country for the benefits of the current and future generations. Also, it is clearly described that, the mandate of control and ownership of the natural wealth and resources fall into the hands of the people. The Constitution stipulates that:

> "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"[lxxiii].

> "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 nation"[lxxiv].

The Constitutional articles enumerated above, necessitates that the Constitution of the United Republic of Tanzania as the mother law of the land sketches the basic foundation of resource nationalism by stressing the importance of protecting, preserving and effectively utilization of the natural wealth and resources allocated in the country. The proper harvesting and utilization of natural resources blessed in the country ensures the endeavour towards economic recovery and development. In other words, the Constitution indicates the supremacy of permanent sovereignty over natural resources towards the destination of control and ownership of natural resources for the benefits of the people in the country[lxxv].

Furthermore, it should be strongly noted that, the Constitution obligates the government of the country specifically those officials who are mandated to transact with the exploration,

exploitation as well as development of natural wealth and resources activities are conducted in a bonafide modality of management for common good and ensures the endowed natural resources contribute to economic recovery and development of the country[lxxvi].

However, despite of the strengthens found in the Constitutional provisions regarding the achievements of natural resources to be placed to the people and pledge nationalism attitudes, the author of this study views that, the constitution also agonizes from a number of weaknesses including general terms which may convey interpretation dilemma due to the fact that they do not specifically identify as to what constitutes 'the protections' of natural resources. Also, some constitutional provisions generate complications because they are not clear. For instance, the expressions 'all property collectively owned by the people' generates complication because it is not clear whether natural resources are one of such properties[lxxvii]. It is proposed to undergo Constitutional changes or amendments in addressing the identified weaknesses to provide adequate protection of natural resources for the benefits of the country.

ii. *The Natural Wealth and Resources (Permanent Sovereignty) Act No. 5 of 2017*

The Natural Wealth and Resources (Permanent Sovereignty) Act governs matters of natural wealth and resources in the Tanzania. The Act stipulates provisions for ownership and control over the natural wealth and resources and it provides for the protection of permanent sovereignty over natural resources. On top of that, the Act applies to Tanzania Mainland as well as Tanzania Zanzibar[lxxviii].

As indicated under the Constitution of Tanzania[lxxix], the Natural Wealth and Resources (Permanent Sovereignty) Act describes the permanent sovereignty over natural resources belong to the people of Tanzania. Basically, every individual is duty bound to protect the natural resources of the country, the property of the state authority, all property collectively owned by the people and respect of another's property is given higher priority under the constitution as well as under the Act. That is to say, the ownership and control over natural wealth and resources shall always be exercised solely by the government on behalf of the people of Tanzania[lxxx].

The Act also provides compliance to the proclamation of permanent sovereignty over natural resource[lxxxi]. The provision indicates that, Tanzania recognizes and adheres to exercise the international and regional proclamations entailing permanent sovereignty over natural resources. For instance, the UN General Assembly Resolution on Permanent Sovereignty over Natural Resources 1803(XVIII) of 1962, the Charter of Economic Rights and Duties of 1981 and the General Assembly Resolution 3281 of 1974.

Moreover, the Act continues to put much emphasis in conceptualizing the natural wealth and resources to be inalienable assets in the hands of the country's people. The natural wealth and resources are regarded to be the property of the people of the country[lxxxii].

However, the natural wealth and resources are held in trust to the President of Tanzania on behalf of the people of the United Republic[lxxxiii]. Also, the Act provides that, those activities and all other dealings linking to the exploration and production of the natural wealth and resources to be conducted by the government on the behalf and for the best interests of the people in the country[lxxxiv].

Moreover, the Act prohibits making any arrangement or agreement of extraction, exploitation or even acquisition and us of natural wealth and resources in the jurisdiction of Tanzania except for the benefit of the people and the United Republic in particular[lxxxv]. In other words, the Act asserts prohibition to undertake extractive activities including any arrangement or agreement for local or even international cooperation for economic and social growth that involve the natural wealth and resources without furthering the independence and self-reliance of the people of the United Republic emanated from the principle of the permanent sovereignty over natural resources.

The Act provides guarantee of returns into the Tanzanian economy from the earnings accrued or derived from the extractive or exploitation activities from the natural wealth and resources. It implies that in any kind of arrangement or agreement that involves the conducts or activities of exploration, exploitation as well development of the natural wealth and resources in Tanzania there should be return of benefit and profit to the current and future generations of Tanzania[lxxxvi].

The issue of equitable stake in the ventures of the exploitation, extraction and exploitation of the natural resources to the people and their government is also given higher priority in the Act[lxxxvii]. It is stipulated that, any arrangement conferred for the extraction, exploitation or acquisition and use of natural wealth and resources in the jurisdiction of Tanzania shall ensure that, the government and majority people obtain equitable stake in the venture. In this way, the people and their government stake are well taken into board over natural wealth and resources[lxxxviii].

The requirement for beneficiation from the natural wealth and resources are described under the Act[lxxxix]. It is constrained to export the natural resources for the outside beneficiation. Much emphasis on beneficiation facilities is given to the people of Tanzania and their Republic government from any arrangement or agreement for the extraction, exploitation or even acquisition and use of natural resources which are exported outside Tanzania.

Furthermore, the Act stipulates an obligation for retention of earnings in the banks and financial institutions established in Tanzania[xc]. The provision clearly expresses mandatory requirement for all earnings from any arrangement or agreement for the extraction, exploitation, acquisition, dealings or use of natural wealth and resources to be retained in the banks and financial institutions established in the United Republic of Tanzania. Also, the Act declares that, it is unlawful to keep such earnings in the banks or financial institutions outside Tanzania except where distributed profits are repatriated in accordance to the laws of Tanzania[xci].

The Act provides prohibition of proceedings in foreign courts[xcii]. With compliance to the Constitution of Tanzania[xciii], the Act prohibits matters of the permanent sovereignty over natural wealth and resources to be adjudicated by the foreign court or tribunal. In this context, it denotes that, the disputes arising from extraction, exploitation or acquisition and use of natural wealth and resources are required to be adjudicated in by judicial bodies or other organs established in the United Republic of Tanzania and in accordance to the laws of Tanzania[xciv]. In a simply approach here, the provision of the Act means that, the legal adjudication processes in all matters pertaining to the extraction, exploitation, acquisition or use of natural wealth and resources shall be subject exclusively to the judicial bodies and tribunals established in Tanzania and the applicable laws for the proceedings shall be laws of Tanzania.

Again, the National Assembly of Tanzania is conferred powers to review the arrangement and agreements entailing to the extraction, exploitation, acquisition and use of natural wealth and resources in the jurisdiction of the United Republic whenever the need to do so arise[xcv].

Furthermore, the Act confers power of making regulations to the Minister responsible for constitutional affairs[xcvi]. The Act provides an opportunity of making regulations for the better carrying out of the provisions of the Act. The regulations may further prescribes code of conduct for investors in natural wealth and resources[xcvii], minimum guidelines for inspection, monitoring and evaluation of investments in natural wealth and resources[xcviii] and anything which is conducive or incidental to the real implementation of the Act[xcix].

From the above descriptions, it is observed that the Natural Wealth and Resources (Permanent Sovereignty) Act[c] of 2017 is an adequate and comprehensive Act which formulates provisions entailing to the resource nationalism in Tanzania. It is indicated that, the ownership and control of natural wealth and resources as far as the principle of permanent sovereignty of natural wealth and resources is concerned, the people of Tanzania and their own country are given supremacy in numerous provisions of the Act. The Act provides essential legal requirements of beneficiations in the sense of facilities and other types of profits acquired from the arrangement of agreement of extraction, exploitation, acquisition and use of natural wealth and resources are given to the people of Tanzania and their country.

However, it should be carefully noted that, the climax point of achievement for all issues stipulated in the provisions of the Act depends upon the level of implementation, adherence, authentic patriotism, extensive technology, building capacity and good ethics of the public officials who are vested powers to manage and administer matters of natural wealth and resources as well the cooperation of ordinary people. Otherwise, the existing great expectations of benefit and profits accrued from the natural wealth and resources might remain to be a challengeable phenomenon in many years in the future.

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

These Regulations are made under section 13(2)(a) of the Natural Wealth and Resources (Permanent Sovereignty) Act No. 5 of 2017 (laws of Tanzania). It is clearly specified that, the regulations apply to an entity, consultant, supplier, contractor, investors, partner and agent, including their employees entailed in any arrangement or agreement on natural wealth and resources[ci]. The objectives of these regulations or code of conduct are to ensure that, the arrangements or agreements on natural wealth and resources and all other connected business or activities are conducted in a manner consistent with the highest ethical principles, and in accordance to the Constitution of Tanzania of 1977 and all national policies and laws[cii].

The investors are required to comply with policies and laws, regulations and other binding instruments and decisions based upon the legal instruments[ciii]. It signifies that, all activities engaged by the investors are supposed to abide with the laid down legislations and policies established within the jurisdiction of Tanzania[civ]. And it is further described that for the avoidance of doubt, the advice of the Attorney General shall always be sought on the provisions of the principal Act, Code of Conduct, or any other instruments entails natural wealth and resources[cv].

The code of conduct also set up an agreement requires every entity, consultant, supplier, contractor, investor, partner and agent including employees administered by this code of conduct to pledge to operate in good faith, transparently and in the best interest and welfare of the people of Tanzania to whom the natural wealth and resources are belonged to[cvi].

Moreover, it is prohibited to engage in any activities amounting to corruption. The code of conduct disallows an investor to involve in any activities connected to corruption, bribery, trading in influence, taking advantage, the making of facilitation payments as well as any other form of economic and organized crimes[cvii]. In this context, we observe that, the code of conduct strictly prohibits any form or activity amounting to corruption in the extraction, exploitation, acquisition or use of the natural wealth and resources.

Furthermore, the code of conduct stipulates provisions relating to numerous significant matters such as conflict of interest[cviii], respect for basic rights[cix], non-discrimination[cx], workers' rights[cxi], child rights protection[cxii], impact on environment[cxiii], competition on market-sharing agreements and cooperation on fixing prices[cxiv], avoiding breach of code[cxv] and many other provisions of the code of conduct.

All in all, the regulations made under section 13(2)(a) of the Natural Wealth and Resources (Permanent Sovereignty) Act[cxvi] intend to clarity further on the provisions of the Act relating to the permanent sovereignty on the arrangements or agreements of natural wealth and resources and all other connected business or activities conducted in a consistent approach and integrity in maintaining resource nationalism with the compliance of the Constitution of United Republic of Tanzania of 1977 and other governing laws.

iv. ***The Natural Wealth and Resources Contracts (Review and Re-Negotiation of Unconscionable Terms) Act No. 6 of 2017***

In general perspective the Natural Wealth and Resource Contracts (Review and Re-Negotiations of Unconscionable Terms Act of 2017[cxvii] was formulated to resolve and equitably undertake protected measures intended to ensure that, the natural wealth and resources of Tanzania are used for the greatest benefit and welfare of the people and their country by ensuring that all arrangements or agreements by the government protect interests of the people and their country as well[cxviii]. On top of that, the Act provides legal requirements of undertaking comprehensive statutory provisions that requires all arrangements or agreements on natural wealth and resources entered in Tanzania to be tabled for review by the National Assembly for the objective of ensuring that, any unconscionable terms are rectified or expunged at all. The Act applies to both Mainland Tanzania and Tanzania Zanzibar over the ownership and control of natural wealth and resources[cxix].

The Act provides power to the National Assembly to review any arrangements or agreements made by the government relating to the natural wealth and resources for effective performance of oversight and advisory function[cxx]. On the other hand, the Act asserts fair and equitable treatment to the parties with respect to the principle of permanent sovereignty over natural wealth and resources in Tanzania[cxxi].

Like other related Acts governing natural wealth and resources issues, the Natural Wealth and Resources Contracts (Review and Re-Negotiation of Unconscionable Terms) Act of 2017 provides unanimously compliance and effect the proclamation of permanent sovereignty over natural resource[cxxii]. The provision indicates that, Tanzania adheres to exercise the international proclamations associated to international laws entailing permanent sovereignty over natural resources including the UN General Assembly Resolution on Permanent Sovereignty over Natural Resources 1803(XVIII) of 1962.

Additionally, the Act stipulates legal requirement of procedures for review of all arrangements or agreements on natural wealth and resources[cxxiii]. It is provided that, all arrangements or agreements made by the government to be reported to the National Assembly within six sitting days to determine or find whether the arrangement or agreement contains unconscionable terms. The National Assembly is legal mandated to advise the Government to initiate re-negotiation of the arrangement or agreement with a view to rectify the terms of the arrangement or agreement[cxxiv]. Interestingly, the National Assembly is conferred power to advise the government to review the arrangement or agreement on natural wealth and resources made even before coming into force of this Act whenever it considers detrimental or disadvantageous to the interest of the people of Tanzania and the United Republic as well by reason of unconscionable terms[cxxv]. In the exercise of this power, the National Assembly is mandated to make resolution in advising the government.

Furthermore, the Act empowers the government to serve the other party to the arrangement or agreement a notice of intention to re-negotiate the terms with in thirty days of the resolution on the unconscionable terms found by the National Assembly[cxxvi]. The unconscionable term is interpreted in the Act 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 like to jeopardize the interests of the people of United Republic of Tanzania[cxxvii]. A part from that, the Act elaborates further criteria for the arrangement or agreements to be treated as such if contain unconscionable term[cxxviii].

Again, the Act stipulates the mandate of the government to state the nature of the unconscionable terms and intention to expunge the arrangement or agreement in case the re-

ne-negotiation is not concluded within a specified period[cxxix]. The duration of re-negotiation for unconscionable terms is limited to, not exceed ninety days from the date of service of notice to the other party[cxxx]. Finally, the government is obligated to prepare a report on the outcome of re-negotiation and lay down the report before the National Assembly[cxxxi].

The Act specifies the rectification and expunge of unconscionable terms[cxxxii]. It is described that, whenever the government has served notice of intention to the other part for the purpose of re-negotiating the arrangement or agreement and if the other party fails to agree to re-negotiate the unconscionable terms, the unconscionable terms will be treated as having been expunged. The provision of rectification and expunge of unconscionable terms of this Act is given supremacy to override effect over any other law governing administration and management of the natural wealth and resources in the country[cxxxiii].

Moreover, the Act empowers the Minister responsible for constitutional affairs to make regulations better carrying out of the provision and functions of the Act on the parameters of negotiation, code of conduct for members of government negotiation team, and anything connected or enabling effective implementation of the Act[cxxxiv].

In conclusion, the Natural Wealth and Resources Contracts (Review and Re-Negotiation of Unconscionable Terms) Act of 2017 describes matters of review and re-negotiation of unconscionable terms related to the natural wealth and resources. It further stipulates reviewing issues for the arrangements and agreements between the legislature, government and other various investors in the country whenever deems necessary.

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

These regulations are made under section under section 8 of the Natural Wealth and Resources Contracts (Review and Re-Negotiation of Unconscionable Terms) Act No. 6 of 2017. It is stipulated that, the review of all arrangements or agreements to which the Act entails shall be undertaken on the basis of fair dealing, honesty and utmost good faith[cxxxv]. The National Assembly is restricted to determine the arrangement or agreement under the consideration of re-negotiation[cxxxvi].

The regulation identifies the coordination, monitoring and management of arrangements or agreements. In this context, it is specified that, the President shall continue to be the trustee of the natural wealth and resources on behalf of the people of Tanzania[cxxxvii] and the Minister responsible for natural wealth and resources, on behalf of the President vested power to coordinate, monitor and manage all contracts and report to the President in accordance to the applicable laws and procedures[cxxxviii].

The regulations vest power to establish the Register of arrangements or agreements within the Ministry responsible for natural wealth and resources[cxxxix]. The Director responsible for natural wealth is conferred power to be as the Registrar of natural wealth and resources arrangements or agreements[cxl]. Among others, the director is responsible for keeping all-natural wealth and resources arrangements or agreements, and to keep and maintain the register[cxli].

The regulations stipulate legal requirement for the Registrar to register an arrangement or agreement submitted to him and assign a registration number which shall signify the identity of the arrangement or agreement so registered to be used in all transactions and correspondence related to such arrangement or agreement[cxlii].

The regulations vest power to the Minister responsible for constitution affairs to notify the Minister responsible for natural wealth and resources for entry into arrangement or agreement which is required to re-negotiate the arrangement or agreement as stated in the notice within seven days from the day of the resolution by the National Assembly[cxliii]. Additionally, the Minister responsible for entry upon receiving a notice and after receiving consultation from Attorney General will appoint a re-negotiation team on such terms and conditions as may be deemed fit[cxliv]. It is further described that, in appointing the members of the renegotiation team, the Minister shall regard to skills, experience, ethics, and knowledge relevant to the subject matter of renegotiation[cxlv].

The regulations specify many other significant provisions relating to carrying out the legal requirements of renegotiation of unconscionable terms in the natural wealth and resources contracts as identified in the principal Act. For instance, the submission and reporting procedures for the renegotiation team[cxlvi] and savings provisions[cxlvii].

All in all, the Natural Wealth and Resources Contracts (Review and Re-Negotiation of Unconscionable Terms) Regulations, 2020 formulates additional clarification for the provisions specified in the principal Act namely the Natural Wealth and Resources Contracts (Review and Re-Negotiation of Unconscionable Terms) Act No. 6 of 2017. The regulations clarify further the mechanism of carrying or implementation of the provisions of the Act pertaining to natural wealth and resources contracts in the course of reviewing and re-negotiation of unconscionable terms upon the arrangements or agreements concluded or expected to be concluded in the future. Both the Act and its regulations put much emphasis on the protection of natural wealth and resources endowed in Tanzania to be utilized with primary focus of ensuring the best interests of the people and their country, and ensuring that the unconscionable terms in the arrangements or agreements are rectified for benefits of the current and future generations of Tanzania.

vi. *The Written Laws (Miscellaneous Amendments) Act, 2017*

The Act was enacted to amend certain written laws in the extractive industry and financial laws with a view to enhancing control and compliance, ensuring maximum collection of revenues and securing national interests[cxlviii]. The Act was formulated to amend several laws applicable in Tanzania including the Mining Act Cap. 123, Petroleum Act, Cap 392 and Income Tax Act, Cap 332.

First and foremost, the Miscellaneous Act, 2017 amends the Mining Act, Cap. 123 by repealing the section relating to the control of minerals[cxlix]. The Act substitutes that, the entire property in and control of all minerals in, and under or upon any land, rivers, streams, water course throughout Tanzania, continental shelf or the exclusive economic zones are the property of the United Republic and are vested to the President in trust for the people of Tanzania[cl]. It means that, the government is conferred power of lien over all materials, substances and products extracted from the mining activities or mineral operations. The amendments undertaken symbolises the increasing extent of resource nationalism in Tanzania by ensuring that the natural wealth and resources including mining resources and its management system are owned and controlled by the country for the benefits of the people. It should also be noted that, for these amendments, the Miscellaneous Act, 2017 repealed altogether section 5 of the Mining Act, Cap. 123 by substituting the new section[cli].

Secondly, the Miscellaneous Act, 2017 amends the Mining Act, Cap. 123 by repealing the provision relating to the development Agreement[cliii]. The Act substitutes the state participation by having not less than sixteen percent non-durable free carried interest shares in the capital of a mining company depending on the type of minerals and the level of investment in the mining operations of the country[cliii]. Additionally, the Act empowers the government to acquire in total up to fifty percent of the shares of the mining company proportionate with the total tax expenditures incurred by the government in favour of the mining company. These legal amendments denote significant changes and development of resource nationalism in Tanzania associated to the economic recovery and development of the country for the current and future generations.

However, a part from the respective legal development on natural wealth and resources in Tanzania, the author of this academic article views that, the application of democratic management system and plans in both natural wealth and resources and an appropriate utilization of the collected national income from the natural wealth and resources shall benefit the current and future generation of Tanzania.

The Act makes amendment by repealing the provisions relating to validity and review of development agreements[cliv]. The repealed provisions are substituted by the section relating to review and renegotiation of development agreements[clv]. In this context, it means that, all development agreements concluded prior to the coming into force of this Written Laws (Miscellaneous Amendments) Act, 2017 in the country shall remain into force in accordance to the Natural Wealth and Resources Contracts (Review and Re-Negotiation of Unconscionable Terms) Act, 2017.

The Act establishes the national mineral resources data bank[clvi]. The geological survey Tanzania is legal empowered to establish the national mineral resources data bank and the generated mineral data are controlled and owned by the government of Tanzania[clvii]. The significant attempt of establishing the national mineral resource data bank in the country is very useful in the sense that it encourages both stakeholders of mineral resources including local miners of lower, middle and upper classes as well as the foreigners to expedite their unanimous efforts in extraction, exploitation, development, use and trade in mineral resources.

The attempt of establishing the national mineral resources data bank signifies the extent of resource nationalism in the country and contributes to the economic recovery and development.

Moreover, the Act provides for the control over removal of raw materials from the mines[clviii] It is elaborated that, the raw material is only be removed from the mine under the supervision of the government and be secured in the government mineral warehouse in accordance to the laid down national regulations. Additionally, the Act asserts an offence to remove minerals stored at the mine without the government authorization and by means of transportation not approved by the government[clix]. These provisions prohibit removal of raw materials associated from the mine resources in the country without the government approval. In other words, the Act indicates the maximum extent of resource nationalism in the country intended to benefit the people and their country for national economic recovery and development.

The Act highlights the regulation over the use of stabilization regime[clx]. It is prohibited to use provision of stabilization clause in any kind of negotiations in the extractive sector in Tanzania[clxi]. Under this circumstance, the stabilization clauses that intend to freeze the laws or restrict the contract arrangement from the country's sovereignty are completely outlawed to applicable in the jurisdiction of Tanzania However, the stabilization arrangement is only acceptable in Tanzania if it will be specific and time bound without guarantee to last for a life time of nay mine allocated in the country[clxii]. It is also provided that for the stabilization arrangement which entails tax expenditures, the government provides the quantification of the values of the tax expenditures and how the mining company shall recompense the government inevitable revenues[clxiii]. A part from the restrictions which may face the investors from the provided stabilization clause in the Act, the author of this article views that, the stabilization arrangements are good for the benefits of the people and their country but the arrangement should entail renegotiation between the investors and the state from time to time as deemed necessary in order to observe the principles of economic equilibrium among both respective parties.

Moreover, the Act provides other provisions relating to the development of natural wealth and resources. The provisions symbolize the growth status of resource nationalism for the benefits of the people as well to their country. For instance, the provisions relating to the local content,

corporate social responsibility and integrity pledge[clxiv] and environmental principles and liabilities[clxv], and observance of the agreement principles over petroleum industry[clxvi].

IMPLICATIONS OF THE TANZANIA LEGAL FRAMEWORK UNDER RESOURCE NATIONALISM

The legal frameworks of Tanzania generally intend to set up the right and recognition of the country's sovereignty and asserting permanent sovereignty for the purpose of exploring, exploiting and managing its natural resources. In other words, the enacted legislations provides that, the endowed and abundant natural wealth and resources allocated in Tanzania should be harvested and utilized for the best interests of the people and ensuring economic recovery and development. Moreover, the legal framework imposes the responsibility to the Government to ensure the best interests of the people and the United Republic are protected in any arrangement or agreement which the government makes or enters in respect of such natural wealth.

BENEFITS AND CHALLENGES FACING THE DEVELOPMENT OF NATURAL WEALTH AND RESOURCES IN IMPLEMENTING RESOURCES NATIONALISM

Tanzania like many other African and developing countries in the globe, it supplies major component of the world's natural resources and mineral goods[clxvii]. In this context, it is unanimously agreed that, the natural wealth and resources projects are very valuable in the development of a country and its people[clxviii]. The natural wealth and resources in any rich – resource country contributes to play the significant role on ensuring the welfare of people and their country attain highest rank of economic development. In this vein, the natural wealth and resources is very essential economic sector and it remains to act as the important bridge for economic transformative growth in ensuring people and their country move from one level to the other higher level of development.

On top of that, the natural wealth and resources sector provides numerous benefits to the people and their country. The stated benefits including the increase national income through taxes,

dividend, royalties, bonus and salaries for the recruited people, development of employment opportunities, infrastructural development, procurement of local goods, training and improvement of social services such education and health facilities[clxix].

However, the natural wealth and resources governance is experienced by several challenges including policy, legal and institutional framework related to the petroleum sector, technological issues related to exploration, reservoir evaluation, drilling, transportation, processing, production, disposition and development of natural resources specifically oil and gas resources[clxx], awareness of the public on the related issue of natural resources, corruption, ineffective legal and administrative framework, lack of skilled human capacity as well as lack of co-operation among the key stakeholders. The circumstance undermines the industrial development and deteriorates the collection of revenues, royalties and other types of taxes necessary for the growth of the current and future generations of the country[clxxi].

Solomon[clxxii] identifies the challenges facing the governance of natural wealth and resources in implementing the resource nationalism. The surrounded challenges deter the resource-endowed countries including Tanzania to harvest the expected benefits from the natural resources. On the same circumstance, the national objective of acquiring as well as increasing the national income from the sector becomes a daydream which basically cannot be achieved at all except to generate vulnerable people from the natural wealth and resources of their own country. The challenges facing the development of natural wealth and resources in implementing the resource nationalism in the resources-endowed countries include lack of advanced technology relating to the extraction, production and development of the extractive activities, inadequate financial capital to run the investment of huge natural wealth and resources, poor trade markets for the products originated from the natural resources such as gold and other minerals, unnecessary bureaucracy specifically in offering extraction licenses, weak management institutions, political conflicts, lack of transparency[clxxiii], undemocratic and mismanagement of the natural resources, inadequate capacity and knowledge in negotiation and entering into investment agreements, environmental destruction of natural wealth and resources[clxxiv],

OBSERVATIONS AND CONCLUSION

This study observes that, the ownership of Tanzania's natural wealth and resources base is fundamental issue in hastening the Tanzania's economic development and necessitating the country's emergence as an essential national and international actor. Therefore, the natural wealth and resources should be properly managed and developed in order to ensure the realization of their benefits impact the life standards of the people in the country and change their livelihood from lower to the high-level stage of living standards.

Though, the resource liberalism differs from resource nationalism in many aspects as indicated in this study, the writer of this manuscript proposes that, the resource liberalism ought not to be overlooked in the country's economic development. It needs to be applied practically in economic business and commercial transactions among the resource-endowed states due to its significant contribution in the world today economy and globalization. It helps to provide economic opportunities, social supports as well as diversifies the country's social infrastructures. However, the state planning must be at the core of Tanzania's resource management which will serve as a guarantee of the country's economic priority.

Moreover, this paper observes that, the Constitutional protection [clxxv] over resource nationalism and natural wealth and resources in Tanzania has been very feeble. Therefore, it is proposed to undergo the Constitutional changes or appropriate amendments in order to make it strong by thoroughly addressing issues of resource nationalism protection. Matters of natural wealth and resources in term of content, legal value and enforcement mechanisms ought to be actually included therein so as to simplify the exploitation of natural resources in the country. Also, it may help to set up the enabling environment for taking legal actions against wrong committers.

Furthermore, the domestic enacted legislations intend to govern and administer matters of natural wealth and resources in the country and enhancing control and ownership of natural resources ensuring national interests. The author of this paper appreciates measures of enacting numerous legislations relating to the protection of natural wealth and resources in the country[clxxvi].

However, this study proposes to undertake legal amendments in those weak Constitutional articles and legislations in order to administer natural resources for the country's development. In the same circumstance, it is proposed to encourage international partnership with foreign investors in the extractive industry that includes general benefits attained from oil, gas and mineral resources by ensuring win-win situation between the country and the foreign investors.

Additionally, it is proposed to execute harmonization of laws governing natural wealth and resources. The legal contradictory provisions should be coordinated all together in a consistence manner in order to improve the legal framework governing natural wealth and resources. For instance, the provisions of charges imposed to small scale investors in mining and other fields of extractive industry need to be harmonized to improve the sector of exploitation, production and development of natural resources in the country.

As pointed earlier, the main focus of this study is to discuss the extent of the legal framework governing the natural wealth and resources in sustaining the resource nationalism development along with the principle of permanent sovereignty over natural resources in Tanzania. This study indicates that, the legal reform undertaken by the Government during 2017 denotes a significant revolution of resource nationalism in natural wealth and resources. As described in this study, the resource nationalism can simply mean a resource protectionism which encourages state participation. It implies that, the resource-endowed states demonstrate desire to control their natural wealth and resources for developmental purposes of their countries for the current and future generations.

The study embraces the development of resource nationalism in the globe particularly Tanzania. The formation and implementation of numerous political and economic policies such as socialism, economic liberalization and nationalization of economic resources in the country in various interval of period contributed to the growth and development of resource nationalism. The set-up policies related to the governance of natural wealth and resources formulated in the country expedited to the enactment of laws and regulations as described in this study. However, the study holds that, the specified articles of the Constitution of Tanzania of 1977[clxxvii] lay down the significant foundation of other subsidiary laws to expound matters of natural resource governance to the control and ownership of the people and their state.

Moreover, the study indicates that the principle of PSNR is closely interconnected with resource nationalism. The basis of this argument is emanated from the fact that both principle of PSNR and resource nationalism share the same attributes in most circumstances. For instance, the assertion of tendency for control and ownership of natural wealth and resources to belong to the resource- endowed countries is the primary characteristic appreciated by both two principles respectively in the natural wealth and resources governance.

Indeed, the legal framework governing natural wealth and resources in the country highlights the resource nationalism attributes. However, additional efforts of appropriate legal changes, enforcement mechanisms and other associated challenges of natural wealth and resources governance are required to be taken into implementation in order to safeguard further protection of the natural resources and facilitating strong national economy as well as sustainable development.

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[lxxii] Article 9(c), and 27(1) & (2) of the Constitution of the United Republic of Tanzania of Tanzania, 1977.
[lxxiii] Article 27(1) of the Constitution of the United Republic of Tanzania, 1977.
[lxxiv] Article 27(2) of the Constitution of the United Republic of Tanzania, 1977.
[lxxv] Article 8(1) and Article 9(f) of the Constitution of the United Republic of Tanzania, 1977.
[lxxvi] Article 9(c) of the Constitution of the United Republic of Tanzania, 1977.
[lxxvii]Article 27(1) of the Constitution of the United Republic of Tanzania, 1977.
[lxxviii] Section 2 of the Natural Wealth and Resources (Permanent Sovereignty) Act No. 5 of 2017.
[lxxix] Article 27(1) of the Constitution of the United Republic of Tanzania of Tanzania, 1977.
[lxxx] Section 4(2) of the Natural Wealth and Resources (Permanent Sovereignty) Act No. 5 of 2017.
[lxxxi] Section 4(3) of the Natural Wealth and Resources (Permanent Sovereignty) Act No. 5 of 2017.
[lxxxii] Section 5(1) of the Natural Wealth and Resources (Permanent Sovereignty) Act No. 5 of 2017.
[lxxxiii] Section 5(2) of the Natural Wealth and Resources (Permanent Sovereignty) Act No. 5 of 2017.
[lxxxiv] Section 5(3) of the Natural Wealth and Resources (Permanent Sovereignty) Act No. 5 of 2017.
[lxxxv] Section 6(2) of the Natural Wealth and Resources (Permanent Sovereignty) Act No. 5 of 2017.
[lxxxvi] Section 7 of the Natural Wealth and Resources (Permanent Sovereignty) Act No. 5 of 2017.
[lxxxvii] Section 8 of the Natural Wealth and Resources (Permanent Sovereignty) Act No. 5 of 2017.
[lxxxviii] Ibid.
[lxxxix] Section 9 of the Natural Wealth and Resources (Permanent Sovereignty) Act No. 5 of 2017.
[xc] Section 10 of the Natural Wealth and Resources (Permanent Sovereignty) Act No. 5 of 2017.
[xci] Section 10(2) of the Natural Wealth and Resources (Permanent Sovereignty) Act No. 5 of 2017.
[xcii] Section 11(1) of the Natural Wealth and Resources (Permanent Sovereignty) Act No. 5 of 2017
[xciii] Article 27(1) of the Constitution of the United Republic of Tanzania, 1977.
[xciv] Section 11(2) of the Natural Wealth and Resources (Permanent Sovereignty) Act No. 5 of 2017.
[xcv] Section 12 of the Natural Wealth and Resources (Permanent Sovereignty) Act No. 5 of 2017
[xcvi] Section 13 of the Natural Wealth and Resources (Permanent Sovereignty) Act No. 5 of 2017.
[xcvii] Section 13(2)(a) of the Natural Wealth and Resources (Permanent Sovereignty) Act No. 5 of 2017.
[xcviii] Section 13(2)(b) of the Natural Wealth and Resources (Permanent Sovereignty) Act No. 5 of 2017.
[xcix] Section 13(2)(c) of the Natural Wealth and Resources (Permanent Sovereignty) Act No. 5 of 2017.
[c] The Natural Wealth and Resources (Permanent Sovereignty) Act No. 5 of 2017.
[ci] Regulation 2 of the Natural Wealth and Resources (Permanent Sovereignty) (Code of Conduct for Investors in Natural Wealth and Resources) Regulations, 2020. Government Notice No. 58 published on 31/1/2020, Cap. 499.
[cii] Regulation 4(1) of the Natural Wealth and Resources (Permanent Sovereignty) (Code of Conduct for Investors in Natural Wealth and Resources) Regulations, 2020. Regulation 4(2) stipulates further that, the Code of Conduct

rooted in safeguarding current and future generations in the protection and utilization of natural wealth and resources as required by the Constitution of the United Republic of Tanzania.

[ciii] Regulation 5(1) of the Natural Wealth and Resources (Permanent Sovereignty) (Code of Conduct for Investors in Natural Wealth and Resources) Regulations, 2020.

[civ] Regulation 5(2) of the Natural Wealth and Resources (Permanent Sovereignty) (Code of Conduct for Investors in Natural Wealth and Resources) Regulations, 2020.

[cv] Regulation 5(3) of the Natural Wealth and Resources (Permanent Sovereignty) (Code of Conduct for Investors in Natural Wealth and Resources) Regulations, 2020.

[cvi] Regulation 6 of the Natural Wealth and Resources (Permanent Sovereignty) (Code of Conduct for Investors in Natural Wealth and Resources) Regulations, 2020.

[cvii] Regulation 7(1) of the Natural Wealth and Resources (Permanent Sovereignty) (Code of Conduct for Investors in Natural Wealth and Resources) Regulations, 2020.

[cviii] Regulation 8(1-4) of the Natural Wealth and Resources (Permanent Sovereignty) (Code of Conduct for Investors in Natural Wealth and Resources) Regulations, 2020.

[cix] Regulation 9(1-3) of the Natural Wealth and Resources (Permanent Sovereignty) (Code of Conduct for Investors in Natural Wealth and Resources) Regulations, 2020.

[cx] Regulation 10 of the Natural Wealth and Resources (Permanent Sovereignty) (Code of Conduct for Investors in Natural Wealth and Resources) Regulations, 2020.

[cxi] Regulation 11(1-5) of the Natural Wealth and Resources (Permanent Sovereignty) (Code of Conduct for Investors in Natural Wealth and Resources) Regulations, 2020.

[cxii] Regulation 12(-3) of the Natural Wealth and Resources (Permanent Sovereignty) (Code of Conduct for Investors in Natural Wealth and Resources) Regulations, 2020.

[cxiii] Regulation 13(1-3) of the Natural Wealth and Resources (Permanent Sovereignty) (Code of Conduct for Investors in Natural Wealth and Resources) Regulations, 2020.

[cxiv] Regulation 14 of the Natural Wealth and Resources (Permanent Sovereignty) (Code of Conduct for Investors in Natural Wealth and Resources) Regulations, 2020.

[cxv] Regulation 15(1-4) of the Natural Wealth and Resources (Permanent Sovereignty) (Code of Conduct for Investors in Natural Wealth and Resources) Regulations, 2020.

[cxvi] The Natural Wealth and Resources (Permanent Sovereignty) Act No. 5 of 2017.

[cxvii] The Natural Wealth and Resources Contracts (Review and Re-Negotiation of Unconscionable Terms) Act No. 6 of 2017.

[cxviii] Ibid, Preamble part of the Act.

[cxix] Section 2 of the Natural Wealth and Resources Contracts (Review and Re-Negotiation of Unconscionable Terms) Act No. 6 of 2017.

[cxx] Section 4(1) of the Natural Wealth and Resources Contracts (Review and Re-Negotiation of Unconscionable Terms) Act No. 6 of 2017.

[cxxi] Section 4(2-3) of the Natural Wealth and Resources Contracts (Review and Re-Negotiation of Unconscionable Terms) Act No. 6 of 2017.

[cxxii] Section 4(4) of the Natural Wealth and Resources Contracts (Review and Re-Negotiation of Unconscionable Terms) Act No. 6 of 2017.

[cxxiii] Section 5(1) of the Natural Wealth and Resources Contracts (Review and Re-Negotiation of Unconscionable Terms) Act No. 6 of 2017.

[cxxiv] Section 5(2) of the Natural Wealth and Resources Contracts (Review and Re-Negotiation of Unconscionable Terms) Act No. 6 of 2017.

[cxxv] Section 5(3) of the Natural Wealth and Resources Contracts (Review and Re-Negotiation of Unconscionable Terms) Act No. 6 of 2017.

[cxxvi] Section 6(1) of the Natural Wealth and Resources Contracts (Review and Re-Negotiation of Unconscionable Terms) Act No. 6 of 2017.

[cxxvii] Section 3 of the Natural Wealth and Resources Contracts (Review and Re-Negotiation of Unconscionable Terms) Act No. 6 of 2017.

[cxxviii] Section 6(2) of the Natural Wealth and Resources Contracts (Review and Re-Negotiation of Unconscionable Terms) Act No. 6 of 2017. Accordingly to the section 6(2) of the Act, the terms of the arrangement or agreement shall be deemed to be unconscionable and treated as such if they contain any provision or requirement that (a) aim at restricting the right of the State to exercise full permanent sovereignty over wealth, natural resources and economic activity; (b) are restricting the right of the State to exercise authority over foreign investment within the country and in accordance with the laws of Tanzania; (c) are inequitable and onerous to the State; (d) restrict periodic review of arrangement or agreement which purport to last life time; (e) securing preferential treatment designed to create a separate legal regime to be applied discriminatorily for the benefit of a particular investor; (f)

are restricting the right of the State to regulate activities of transnational corporation within the country and to take measures to ensure that such activities comply with the laws of the land; (g) are depriving the people of Tanzania of the economic benefits derived from subjecting natural wealth and resources to beneficiation in the country; (h) are by nature empowering transnational corporation to intervene in the internal affairs of Tanzania; (i) are subjecting the State to the jurisdiction of foreign laws and fora; (j) expressly or implicitly are undermining the effectiveness of the State measures to protect the environment or the use if environment friendly technology; (k) aim at doing any other act the effect of which undermines or is injurious to welfare of the people or economic prosperity if the nation.

[cxxix] Section 6(3) of the Natural Wealth and Resources Contracts (Review and Re-Negotiation of Unconscionable Terms) Act No. 6 of 2017.

[cxxx] Section 6(4) of the Natural Wealth and Resources Contracts (Review and Re-Negotiation of Unconscionable Terms) Act No. 6 of 2017.

[cxxxi] Section 6(5) of the Natural Wealth and Resources Contracts (Review and Re-Negotiation of Unconscionable Terms) Act No. 6 of 2017.

[cxxxii] Section 7(1) of the Natural Wealth and Resources Contracts (Review and Re-Negotiation of Unconscionable Terms) Act No. 6 of 2017.

[cxxxiii] Section 7(2) of the Natural Wealth and Resources Contracts (Review and Re-Negotiation of Unconscionable Terms) Act No. 6 of 2017.

[cxxxiv] Section 8 of the Natural Wealth and Resources Contracts (Review and Re-Negotiation of Unconscionable Terms) Act No. 6 of 2017.

[cxxxv] Regulations 3(1) of the Natural Wealth and Resources Contracts (Review and Re-Negotiation of Unconscionable Terms) Regulations, 2020. Government Notice No. 57, published on 31/1/2020, Cap. 450.

[cxxxvi] Regulations 3(2) of the Natural Wealth and Resources Contracts (Review and Re-Negotiation of Unconscionable Terms) Regulations, 2020. Government Notice No. 57, published on 31/1/2020.

[cxxxvii] Regulation 4(1) of the Natural Wealth and Resources Contracts (Review and Re-Negotiation of Unconscionable Terms) Regulations, 2020.

[cxxxviii] Regulation 4(2) of the Natural Wealth and Resources Contracts (Review and Re-Negotiation of Unconscionable Terms) Regulations, 2020.

[cxxxix] Regulation 5(1) of the Natural Wealth and Resources Contracts (Review and Re-Negotiation of Unconscionable Terms) Regulations, 2020.

[cxl] Regulation 6(1) of the Natural Wealth and Resources Contracts (Review and Re-Negotiation of Unconscionable Terms) Regulations, 2020.

[cxli] Regulation 6(2) of the Natural Wealth and Resources Contracts (Review and Re-Negotiation of Unconscionable Terms) Regulations, 2020.

[cxlii] Regulation 7(3) of the Natural Wealth and Resources Contracts (Review and Re-Negotiation of Unconscionable Terms) Regulations, 2020.

[cxliii] Regulation 9(1) of the Natural Wealth and Resources Contracts (Review and Re-Negotiation of Unconscionable Terms) Regulations, 2020.

[cxliv] Regulation 10(1) of the Natural Wealth and Resources Contracts (Review and Re-Negotiation of Unconscionable Terms) Regulations, 2020.

[cxlv] Regulation 10(2) of the Natural Wealth and Resources Contracts (Review and Re-Negotiation of Unconscionable Terms) Regulations, 2020.

[cxlvi] Regulation 12 of the Natural Wealth and Resources Contracts (Review and Re-Negotiation of Unconscionable Terms) Regulations, 2020.

[cxlvii] Regulation 13 of the Natural Wealth and Resources Contracts (Review and Re-Negotiation of Unconscionable Terms) Regulations, 2020.

[cxlviii] The Written Laws (Miscellaneous Amendments) Act No. 7 of 2017.

[cxlix] Section 5 of the Written Laws (Miscellaneous Amendments) Act No. 7 of 2017, and Section 5 of the Mining Act, No. 14 of 2010, Cap.123.

[cl] Section 5(1) of the Written Laws (Miscellaneous Amendments) Act No. 7 of 2017.

[cli] Section 5 of the Written Laws (Miscellaneous Amendments) Act No. 7 of 2017.

[clii] Section 10 of the Written Laws (Miscellaneous Amendments) Act No. 7 of 2017, and Section 10 of the Mining Act, No. 14 of 2010, Cap.123.

[cliii] Section 10(1) of the Written Laws (Miscellaneous Amendments) Act No. 7 of 2017.

[cliv] Section 11 and 12 of the Mining Act, No. 14 of 2010, Cap.123.

[clv] Section 11 of the Written Laws (Miscellaneous Amendments) Act No. 7 of 2017.

[clvi] Section 27F(1) of the Written Laws (Miscellaneous Amendments) Act No. 7 of 2017.

[clvii] Section 27F(2) of the Written Laws (Miscellaneous Amendments) Act No. 7 of 2017.

[clviii] Section 100C(1) of the Written Laws (Miscellaneous Amendments) Act No. 7 of 2017.
[clix] Section 100C(2) of the Written Laws (Miscellaneous Amendments) Act No. 7 of 2017.
[clx] Section 100E(1) of the Written Laws (Miscellaneous Amendments) Act No. 7 of 2017.
[clxi] Ibid.
[clxii] Section 100E(2) of the Written Laws (Miscellaneous Amendments) Act No. 7 of 2017.
[clxiii] Section 100E(4) of the Written Laws (Miscellaneous Amendments) Act No. 7 of 2017.
[clxiv] Sections 102-106 of the Written Laws (Miscellaneous Amendments) Act No. 7 of 2017.
[clxv] Sections 107-113 of the Written Laws (Miscellaneous Amendments) Act No. 7 of 2017.
[clxvi] Sections 29-31 of the Written Laws (Miscellaneous Amendments) Act No. 7 of 2017.
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[clxviii] Speech of Hon. Samia Suluhu Hassan, Vice President of the United Republic of Tanzania (2021), International Conference on Mineral Sector Investment in Tanzania, 2021. The conference was organized by the Ministry of Minerals of the United Republic of Tanzania from 22-23 February, 2021 at Julius Nyerere International Convention Centre (JNICC), Dar es Salaam, Tanzania.
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[clxxi] Ibid, p. 177.
[clxxii] SOLOMON, Michael, (n.xi), p. 109.
[clxxiii] MBABAZI, Pamela (2013), The Oil Industry in Uganda: A blessing in disguise or an all too familiar curse? p. 19-29. The 2012 Claude Ake Memorial Lecture, Nordiska Afrika Institute, Uppsala, p. 19-29.
[clxxiv] ALSTINE, James *et al* (2014), Resource governance dynamics: The challenges of 'new oil' in Uganda, Elsevier Ltd P. 49-57.
[clxxv] The Constitution of the United Republic of Tanzania, 1977.
[clxxvi] The Natural Wealth and Resources (Permanent Sovereignty) Act No. 5 of 2017, Natural Wealth and Resources Contracts (Review and Re-Negotiation of Unconscionable Terms) Act No. 6 of 2017 and the Written Laws (Miscellaneous Amendments) Act No. 7 of 2017 and other related regulations.
[clxxvii] Article 27(1) & (2), 8(1), 9(c) & (f) of the Constitution of the United Republic of Tanzania, 1977.