ISER
Facilitating Social Justice
INITIATIVE FOR SOCIAL AND ECONOMIC RIGHTS

HARNESS NATURAL RESOURCES TO FINANCE PUBLIC SERVICES IN AFRICA

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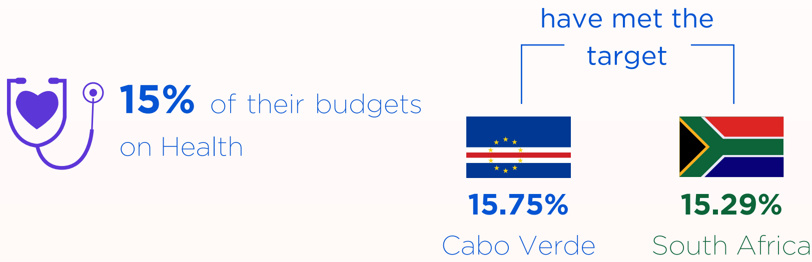
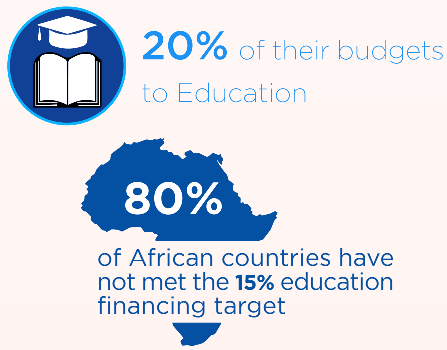
1.0 INTRODUCTION AND BACKGROUND

Public Services in Africa are often of poor quality. This can be attributed to the low levels of financing. More than twenty years since African countries committed to the Abuja Declaration[1] to spend at least 15% of their budgets on health, only two countries, Cabo Verde and South Africa, have met the target, and even that barely, with 15.75% and 15.29% respectively.[2]



Some countries are even spending less on health than they did in 2001 when the Abuja Declaration was signed. In 2021, seven African countries actually spent less on public healthcare spending per person in 2021 than they did two decades back in 2000.[3]

The situation on education is equally dire. Just seven countries have met the target set in the year 2000 at the Dakar Framework for Action Education for All which calls on countries to devote at least 20% of their budgets to education.[4] 80% of African countries have not met this education financing target.[5] Ten countries are even spending less than 15%.[6]



1 https://au.int/sites/default/files/pages/32894-file-2001-abuja-declaration.pdf

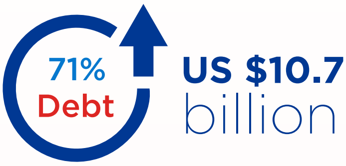
2 Human Rights Watch, ISER, *African Governments Falling Short on Healthcare Funding,* https://www.hrw.org/news/2024/04/26/african-governments-falling-short-healthcare-funding; Human Rights Watch (2024), *Global Failures on Healthcare Funding,* https://www.hrw.org/news/2024/04/11/global-failures-healthcare-funding

3 Ibid.

4 Action Aid et al (2024) Transforming Education Financing in Africa, at p.2, https://actionaid.org/publications/2024/over-18-million-girls-missing-school-africa-continent-loses-usd29-billion#downloads

5 Ibid

6 Ibid



It is not simply a matter of failing to prioritise. Debt is on the rise and Sub Saharan Africa was the recipient of most of these debt flows, at US$10.7 billion, which is 71% share of all debt received by IDA-eligible countries.[7] African countries straddled with a high debt burden are forced to make unconscionable choices, between servicing their debt and servicing public services like health and education amidst dealing with new demands posed by climate change.[8] Fifteen African countries spend more on servicing their debt than education.[9]

While the global financial architecture is flawed, necessitating solutions to the debt crisis including debt cancellation, and supporting a UN Framework Tax Convention to provide African countries with greater flexibility to actually set the tax rules and expand their fiscal space,[10] it is important countries also mobilise maximum available domestic resources to finance public services. This is already a requirement under article 2 of the International Covenant on Economic Social and Cultural Rights which calls on countries to devote maximum available resources to advance these rights.[11] It is also echoed by the African Commission on Human and Peoples Rights in General Comment 7 which notes that in the context of public services, this "requires States to use all resources, existing and potential, including natural, human, technological, institutional and informational resources."[12]

One such source is revenues from natural resources i.e. oil revenues and mineral royalties. The Africa We Want Manifesto by a coalition of Africans calling for gender responsive, quality public services on the Continent calls on African states to use royalties from Africa's natural resources to finance public services.[13] A similar call was made by Uganda's ex Minister of

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7 World Bank, International Debt Report 2023, at p.18, https://openknowledge.worldbank.org/server/api/core/bitstreams/83f7aadd-dc5a-406b-98d4-9624e93993e5/content

8 ISER (2024) The Human Rights Impact of Commercialisation of Public Services in East Africa,

9 Action Aid et al (2024) n.4

10 ISER (2023) UN Member agree to a Framework Convention on International Tax Matters – Here is Why It Matters for Public Services in Africa, https://iser-uganda.org/un-member-agree-to-a-framework-convention-on-international-tax-matters-here-is-why-it-matters-for-public-services-in-africa/; The Africa Coalition on Public Services calls on the USA and EU to Support the 2023 UN Tax Resolution, https://iser-uganda.org/the-africa-coalition-on-public-services-calls-on-the-usa-and-eu-to-support-the-2023-un-tax-resolution/

11 https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights

12 African Commission on Human and Peoples Rights, General Comment 7 State Obligations Under The African Charter On Human And Peoples' Rights In The Context Of Private Provision Of Social Services, https://achpr.au.int/en/documents/2022-10-20/general-comment-7-state-obligations-under-african-charter-human

13 https://iser-uganda.org/wp-content/uploads/2023/10/The-Africa-we-want-manifesto-Final.pdf

Finance and now presidential advisor on the Economy, Prof. Ezra Seruma publicly calling for a portion of oil revenues to be used to finance social protection.

Many African states are endowed with rich natural resources. In East Africa alone, there is titanium, fluorspar, zirconium, gold, diamond, oil, gas, cobalt, nickel, copper, iron ore, coal, uranium.[14] Uganda boasts of gold, oil, cobalt, uranium, copper, lithium to name a few. Some of these resources will be critical in the energy transition and are increasing in demand. If well leveraged, they have the potential to truly transform these countries.

In Africa predicted natural resources revenues could cover part of the projected financing gap in education, and could be enough to achieve universal pre-primary and primary education in the high price scenario. In the low-price scenario, revenues could cover about two-thirds of the financing gap to achieve universal primary education.[15]

This policy brief draws upon experiences from countries that have used their natural resources to advance public services and extrapolates key lessons for African countries seeking to do so. To anchor this discussion, it further examines Uganda's legal and political context and how it could use its natural resources to advance public services. It concludes with key recommendations.

1.2 Objectives of the study

a. To examine the alternative sources of financing for public services in Africa with a focus on natural resources.
b. To conduct a comparative analysis including 5 country case studies that have implemented the use of oil revenues and mineral royalties to fund public services.
c. To identify the gaps in Uganda's legal and policy framework that may hinder this approach and how can they be ameliorated.

1.3 Methodology

The study is a comprehensive desk review of academic and non-academic literature and includes a succinct appraisal of relevant legislation, policies, government documents and budget estimates.

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14 https://www.eac.int/why-invest-in-eac/naturalresources#:~:text=The%20region%20is%20also%20endowed,copper%2C%20coal%20and%20iron%20ore

15 African Development Bank (AfDB) and Bill and Melinda Gates Foundation (BMGF), 'Paper 4: How to use revenues from extractive industries to improve health and education in Africa' (*Flagship Report Paper Series,* June 2015) https://www.opml.co.uk/sites/default/files/migrated_bolt_files/paper-4.pdf.

2.0 EXAMPLES OF COUNTRIES THAT HAVE UTILISED NATURAL RESOURCES TO FUND PUBLIC SERVICES

This section will make a comparative analysis of other countries that have implemented the use of oil revenues and mineral royalties to fund public services.

2.1 Norway: Lessons on the management of oil and gas revenues for the benefit of current and future generations

Norway nationalised its oil and gas sector in 1972, two years after foreign companies started exploring oil off Norway's coast.[16] In 1990, the Norwegian government created the Government Pension Fund Global, originally called the Government Petroleum Fund, one of the world's largest sovereign wealth fund to ensure a long-term perspective in the management of government petroleum revenues.[17] Money made from oil goes directly to the fund where it is then invested. At the end of 2023, the Fund's website reports the market value of the fund amounted to NOK 15 800 billion.[18] Approximately NOK 3 million per registered person in Norway (approximately 276,000 USD per person), and exceeding Norway's GDP at least three times.[19]

2023

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NOK 3 Million

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Per registered person in Norway and exceeding Norway's GDP atleast three times.

> Norway aimed to manage its sovereign wealth fund in a way that ensures the wealth from petroleum will benefit even future generations.[20] Norway created a wide net of social welfare services that provide free education, healthcare and pensions to all the country's citizens.[21]

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[16] Mmanaledi Mataboge, 'Oil together now: Lessons on nationalisation from Norway' (Mail & Guardian, 8 September 2011) https://mg.co.za/article/2011-09-08-oil-together-now-nationalisation-lessons-from-norway/

[17] Norwegian Petroleum, 'Management of income' (2024) https://www.norskpetroleum.no/okonomi/forvaltning-av-inntektene/ accessed 10 April 2024; Einar Lie, 'Learning by failing. The Origins of the Norwegian Oil Fund' (University of Oslo, Visitor scholar UCB, October 2013) https://eml.berkeley.edu/~webfac/cromer/Lie.pdf

[18] *Norwegian Petroleum*

[19] Ibid.

[20] Ibid.

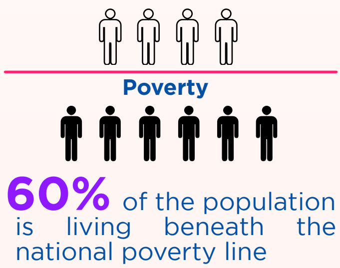
[21] *Mataboge*

Norway provides a useful benchmark for sub-Saharan Africa's natural-resource rich countries.[22]

On the other hand, pitfalls such as a lack of fiscal discipline can result in deindustrialization rather than sustained growth.[23] Second, be wary of prioritising large-scale industry investments and public infrastructure projects with high political prestige but vague or low economic return, over investment in general education, health, that is crucial to deliver sound and sustainable economic growth.[24]

2.2 Indonesia: Lessons on avoiding the natural resource curse through investment in human capital development

Indonesia's oil industry is one of the oldest in the world and dates back to 1885, its experience on oil windfall management stands out as relatively successful compared to other oil-exporting countries.[25] Indonesia has been hailed for avoiding the 'resource curse' and among the key factors that contributed to its success was the diversification of the economy.[26]



In the beginning of the 1970s, Indonesia seemed to fall under the natural resource curse. Despite its endowment with natural resources, it remained a poor country with almost 60 per cent of the population living beneath the national poverty line.

It would later initiate Production Service Agreements (PSAs) to attract independent oil companies who explored, developed and produced oil and gas in new fields which resulted in a

22 Amadou N Sy, Mr. Rabah Arezki, and Thorvaldur Gylfason, 'The Economics of Sovereign Wealth Funds' (International Monetary Fund, 19 Jan 2012) https://doi.org/10.5089/9781616351458.071

23 Ibid

24 Ibid

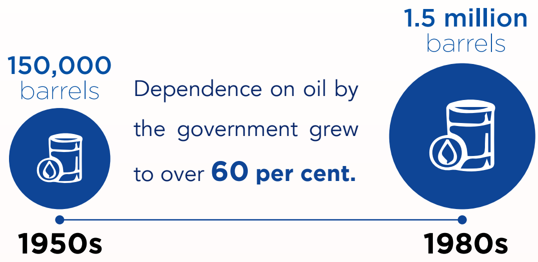
25 International Monetary Fund (IMF), 'Oil and Economic Development in Indonesia' https://www.google.com/url?sa=i&url=https%3A%2F%2Fwww.elibrary.imf.org%2Fdownloadpdf%2Fbook%2F9781589063082%2Fback-1.xml&psig=AOvVaw3TNmEoEpHNPaEeskkB_R-S&ust=1713664381140000&source=images&cd=vfe&opi=89978449&ved=0CAcQrpoMahcKEwio3azp18-FAxUAAAAAHQAAAAAQBA

26 Ibid.

27 Shinji Asanuma, 'Natural Resource Abundance and Economic Development: A Curse? Or a Blessing? – Lessons from Indonesia's Experience' (Hitotsubashi University, 25 June 2008) https://policydialogue.org/files/events/Asanuma_nat_resource_abundance_and_economic_dev.pdf 2024.

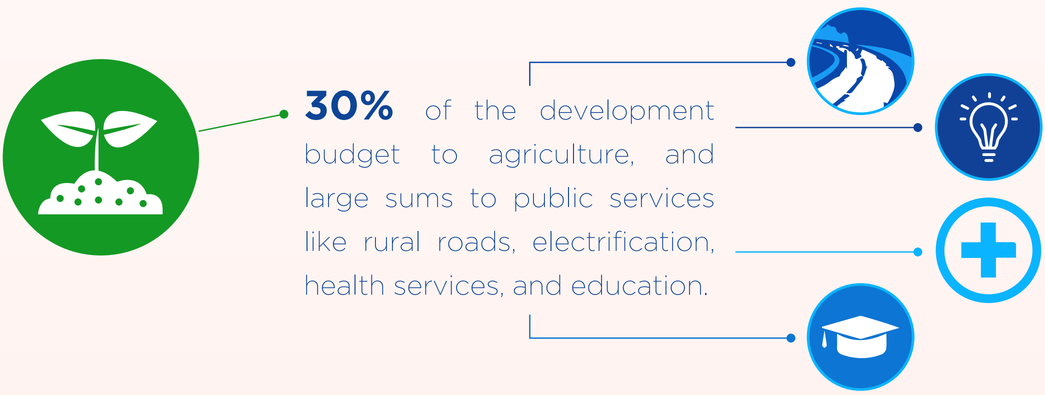
28 Ibid.

tenfold increase in production from 150,000 barrels per day in the late 1950s to up to1.5 million barrels per day in the 1980's.[29] Dependence on oil by the government grew to over 60 per cent.[30]



However, these gains were precarious due to financial imprudence, corruption, spending on wrong priorities, the National Oil Company- Pertamina, nearly bankrupted the country in 1975. Shepherd (2013) opines that Indonesia's experience in the 1970s may be instructive, that "the global oil crisis of the 1970s greatly increased oil prices and profits, much of which was used to expand the national oil company beyond production to include investments in tankers, steel and construction."[32]

To remedy this, Indonesia would later adopt a development strategy to diversify the economy that included the allocation of 30% of the development budget to agriculture, and large sums to public services like rural roads, electrification, health services, and education.[33]



The oil windfall was used to double development spending including channeling increased development expenditure to the Sekolah Dasar (basic education)

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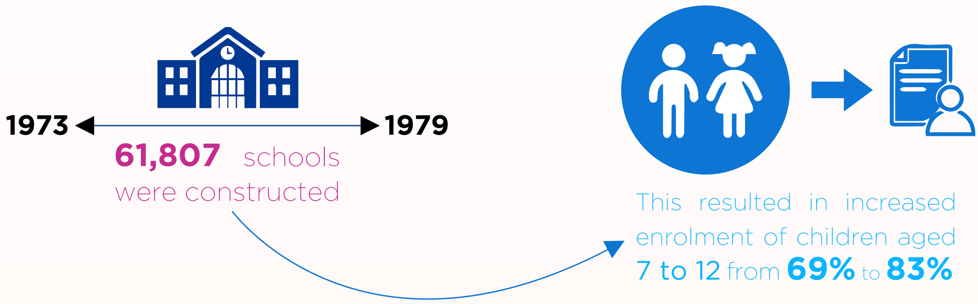
[29] Ibid.
[30] Ibid.
[31] Ibid.
[32] Ben Shepherd, 'Oil in Uganda: International Lessons for Success' (Chatham House, February 2013) https://www.chathamhouse.org/sites/default/files/public/Research/Africa/0113pr_ugandaoil.pdf accessed 10 April 2024.
[33] Ibid.

programme.[34] Indonesia galvanised the oil windfall to make major investments in education provision. This included the construction of 61,807 schools between 1973 and 1979, one of the world's largest-ever school construction programme and recruiting and paying the teachers' salaries.[35] This resulted in increased enrolment of children aged 7 to 12 from 69% to 83%.[36]



Physical and human capital development investments made during the boom also supported economic growth in the non-extractives sectors.[37]

There two key lessons from the Pertamina crisis relevant to resource rich countries today:

1. The importance of a development strategy and feasible investment plan, the outcome of which is a diversified economy.[38] This necessitates allocation and expenditure of a portion of natural revenues on other programmes including health and education during peak production.
2. Strong, transparent budgeting and accountability system to control natural resource revenue in flows and out flows. Outflows from the Petroleum Fund should fit within the already established allocation and budgeting cycle and not on the whims of political pressures.

34 OECD, 'Resource Revenue Earmarking: Comparative Analysis and Lessons Learned' (*Policy dialogue on Natural Resource-based development Work Stream 2: Revenue spending and Natural Resource funds,* 2017) https://www.oecd.org/social/inclusivesocietiesanddevelopment/Session-6-Report-on-Earmarking-Practices.pdf accessed 19 April 2024.

35 Ibid.

36 Ibid.

37 Ibid.

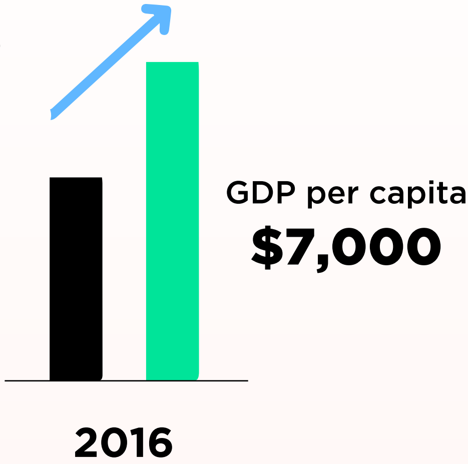
38 Asanuma, n.27

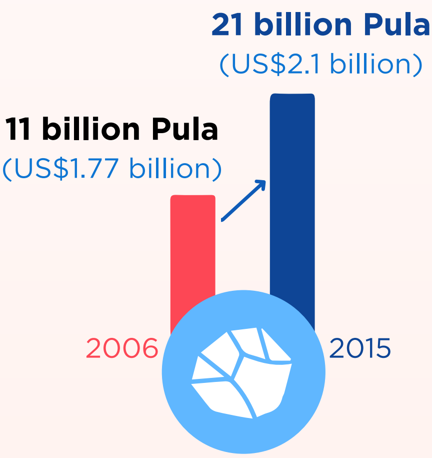
2.3 Botswana: Prioritising natural resource revenue for development expenditure

However, at the time of gaining independence in 1966, Botswana was among the poorest countries in the world.[39]

Even twenty years after gaining its independence, more than **83%** of Botswana's citizens lived in poverty.

It has evolved into one of the fastest-growing economies in the world, primarily due to its vast mineral wealth, mostly diamonds.[40] By 2016, it was counted among upper-middle income countries with a GDP per capita of around $7,000.[41] According to the Organization for Economic Development and Cooperation, Botswana is poised to become a high-income country by 2030.[42]





Botswana Mineral revenue

Over the last thirty five years, the mining sector has significantly contributed to government revenues and comprises of a large proportion of export earnings. Mineral revenues have increased from 11 billion Pula (US$ 1.77 billion) in 2006 to 21 billion Pula (US$ 2.1 billion) in 2015, comprising of 34% of total government revenues in 2015.[43] Furthermore to ensure the income from diamond exports positively impacts future generations, the government of Botswana

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39 Ibid.

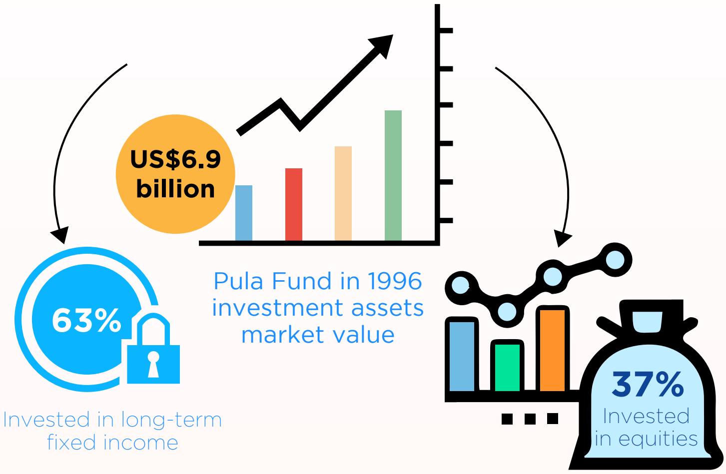
40 Ibid.

41 International Labour Organisation (ILO) Social Protection Department, 'Botswana: Financing Social Protection through Taxation on Natural Resources' (2018) https://www.social-protection.org/gimi/Media.action?id=16577

42 Ann-Jinette Hess, 'How Botswana has Avoided the Resource Curse' (The Borgen Project, November 30, 2023) https://borgenproject.org/avoided-the-resource-curse/#:~:text=How%20did%20Botswana%20avoid%20the,managed%20the%20nation's%20diamond%20wealth

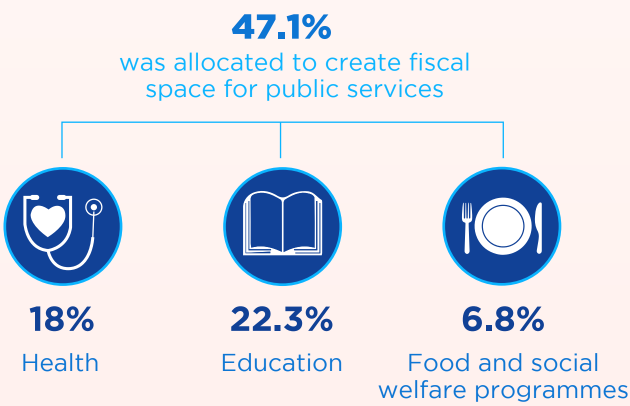
43 Ibid.

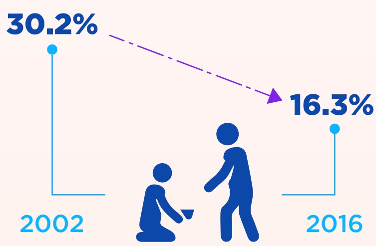
established a sovereign wealth fund, called "Pula Fund", in 1996 whose investment assets had a market value of US $6.9 billion, and 63% invested in long-term fixed income and 37% in equities.[44]



Botswana has a Sustainable Budget Index, and directs some of its mineral revenue to health and education through a particular formular. Returns on investment in foreign financial assets, managed by a special fund, have been directed towards social services.[45]

Slightly less than half of the total government revenue from the mining sector, 47.1%, was allocated to create fiscal space for public services. Of this amount, 18% goes to health, 22.3% to education and 6.8% to food and social welfare programmes.[46] This resulted in a reduction of the national poverty rate from 30.2% in 2002 to 16.3% in 2016.[47]





This resulted in a reduction of the national poverty rate from 30.2% in 2002 to 16.3% in 2016.[47]

[44] Ibid.
[45] Ibid.
[46] ILO, n.41
[47] Ibid.

In education, Botswana has universal primary education and its secondary gross enrolment ratio stands at 82%, double the average for the continent and provides school feeding.[48]

Universal primary education and secondary gross enrolment ratio stands at **82%**

This is due to consistently spending over **5% of its GDP on education** since the mid-1970s,

reaching **8.1% of GDP in 2020**[49]

spending over **20%** of its budget on education since 2009

in 2020, **21.7%** of its budget went to education.[50]

Unlike other African countries whose social protection systems are heavily donor dependent, Botswana finances comprehensive social protection system from its domestic resources, mostly from mineral revenues.

4.4% of GDP By 2017, public social protection expenditure was already 4.4% of GDP mostly through government financing including through natural resource revenues and also contributory schemes.[51]

The lessons learnt here are:

1. Avoid the pitfalls of the resource curse and ensure more inclusive growthy by increasing investment from natural resources in public services including social protection, health, education through clearly allocated formulars.
2. Taxing natural resources increases government revenue and when channelled adequately supports public services, for example expanding social protection.
3. This positive experience is underpinned by good governance, a competent civil service and political stability.[52]

48 Ibid.

49 World Bank, Government Expenditure on Education, total ((%) of GDP), Botswana, https://data.worldbank.org/indicator/SE.XPD.TOTL.GD.ZS?locations=BW

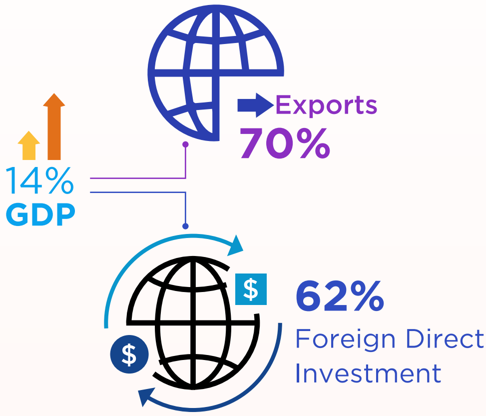
50 World Bank, Government Expenditure on Education, total (% of Government Expenditure), Botswana, https://data.worldbank.org/indicator/SE.XPD.TOTL.GB.ZS?locations=BW

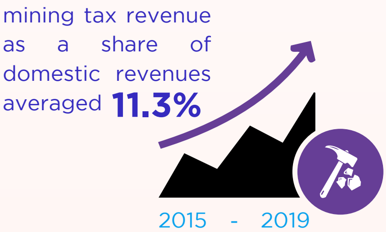
51 ILO, n41. *See also* UNICEF 2017. "Social Protection Budget Brief", United Nations Children`s Fund, Botswana. Available at: https://www.unicef.org/esaro/UNICEF-Botswana-2017-Social-Protection-Budget-Brief.pdf

52 Global Education Monitoring Report Team,' Turning the resource curse into a blessing for education' (*Education for All Global Monitoring Report, Policy Paper 08*, UNESCO, May 2013) https://unesdoc.unesco.org/ark:/48223/pf0000220443

2.4 Zambia: Financing public services through taxation of Natural Resources

Like Botswana, Zambia's mining receipts are high.[53] Over the last century, Zambia has had commercial-scale mining which is the country's dominant industry significantly contributing to government revenues and employment.[54] As of 2019, it contributed to 14% GDP, had the largest share of exports (70%) and comprised of 62% of Foreign Direct Investment (FDI).[55]





Given the country's heavy reliance on the mining sector, how it manages its revenues is key. The sector contributes to the treasury through an array of taxes, directly and indirectly. For instance, between 2015 and 2019 mining tax revenue as a share of domestic revenues averaged 11.3%.[56]

Zambia has used significant government revenues from mining resources to fund public services.[57]

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53 International Labour Office (ILO),' Financing Social Protection through Taxation of Natural Resources-Zambia' (August, 2016) https://www.social-protection.org/gimi/gess/Media.action;jsessionid=0hxvXCPzm4REhEyBqDDjl_aD48II561iwZmafynXvutiQssxWTta!-765179005?id=15578#:~:text=Taxing%20natural%20resource%20extracting%20industries,social%20protection%20that%20countries%20have.

54 The International Council on Mining and Metals (ICMM), 'Enhancing mining's contribution to the Zambian economy and society' (April 2014) https://zambiaeiti.org/wp-content/uploads/2017/05/ICMM-Zambia-Report_2014.pdf

55 Oxfam, 'Copper for Development Report' (March 2021) https://webassets.oxfamamerica.org/media/documents/COPPER_FOR_DEVELOPMENT_REPORT.pdf

56 Ibid.

57 International Labour Office (ILO),' Financing Social Protection through Taxation of Natural Resources-Zambia' (August, 2016) https://www.social-protection.org/gimi/gess/Media.action;jsessionid=0hxvXCPzm4REhEyBqDDjl_aD48II561iwZmafynXvutiQssxWTta!-765179005?id=15578#:~:text=Taxing%20natural%20resource%20extracting%20industries,social%20protection%20that%20countries%20have

The Government of Zambia made the following changes to the mining fiscal regime to increase mineral taxes and royalties:[58]

In 2019

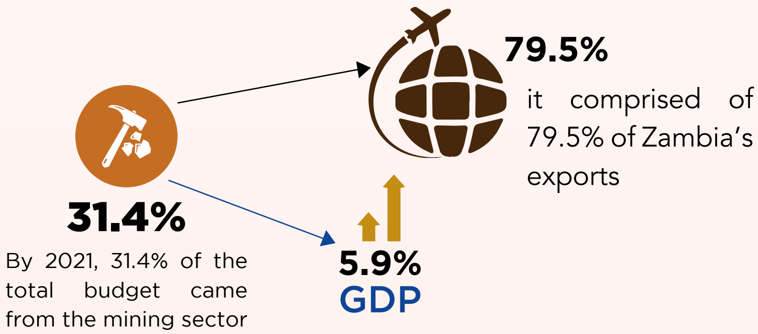
2019

- 1.5 percentage points increase in mineral royalty rates at all levels of the sliding scale;
- when copper prices rise beyond US$7,500 per metric tonne, a fourth tier rate of 10 percent on the sliding scale mineral royalty regime is imposed;
- 5 percent import duty on copper and cobalt concentrates;
- 15 percent export duty on precious metals (gold, precious stones and gemstones);
- Increased the duty from 10 to 15 percent on manganese ores and concentrates and removed prior suspension of the export duty put in place in 2012.

2023

- For copper, the tax will no longer be applied on the marginal value but on the incremental value of each adjusted price band.

By 2021, 31.4% of the total budget came from the mining sector and it comprised of 79.5% of Zambia's exports and 5.9% of GDP.[61]



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[58] The International Council on Mining and Metals (ICMM), 'Enhancing mining's contribution to the Zambian economy and society' (April 2014) https://zambiaeiti.org/wp-content/uploads/2017/05/ICMM-Zambia-Report_2014.pdf

[59] Mbewe Kalikeka et al, 'Taxing Zambia's Mining Sector for the Energy Transition: Opportunities and Challenges' (*Tax Justice Network Africa and Publish What You Pay Zambia, March 2023*) https://taxjusticeafrica.net/sites/default/files/publications/Taxing%20Zambia%27s%20Mining%20Sector%20for%20the%20Energy%20Transition_Full%20Report.pdf

[60] Ibid.

[61] Ibid.

It accounted for **26% of total domestic revenues** with a near doubling of revenue contribution from corporate income tax and mineral royalties combined **(US$600m in 2018-2020 to US$1.1 billion)** in 2021.[62]

The government of Zambia emphasises health, education and social protection as a means to achieve their development goals.[63] It introduced universal primary education. In 2023, it increased its budget allocation to social protection by 28.6%

and as a share of the national budget social protection comprises of **4.9%**[64]

There several relevant lessons from Zambia's experience regarding financing public services through taxation of natural resources.

To increase financing for public expenditure, Zambia

a) introduced various measures to increase efficiency and to widen the base for its government revenue
b) implemented institutional reforms such as the creation of a large taxpayers' office and a gradual strengthening of its revenue collection framework,
c) reduced tax leakages.[65]

62 Ibid.
63 Rafael Aguirre Unceta,' Mining Revenue, Fiscal Space and Social Policies: The case of Zambia' (*Working Paper, No. 191, International Policy Centre for Inclusive Growth (IPC-IG)*, Brasilia, 2021) https://www.econstor.eu/bitstream/10419/261195/1/WP191.pdf
64 At p.9 https://www.unicef.org/esa/media/12581/file/UNICEF-Zambia-Budget-Brief-Social-Protection-2023.pdf
65 Rafael Aguirre Unceta n.63

2.5 United Arabs Emirates: investing oil revenues in education and healthcare to spur a diversified knowledge based economy and reduce dependency on natural resources

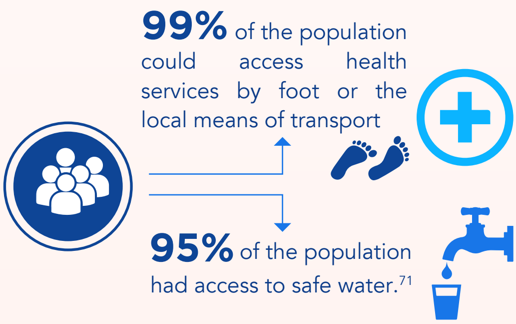
The United Arab Emirates (UAE), a federation of seven different emirates, comprises the third largest economy in the Middle East. UAE is seventh globally in reserves of natural gas and oil, which were **98.8 billion** barrels.

Oil comprises about 10% of the World's total, UAE has the third largest oil reserves in the world after Saudi Arabia and Iraq, and is home to the fourth largest reserves of natural gas in the world.[66]

Before oil was discovered in UAE in 1958, the seven separate emirates had the same under-developed subsistence economies that depended mainly on subsistence agriculture, nomadic animal husbandry, fishing, and the extraction and trade of pearls.

One of the things the UAE has done is distribute proceeds from the large oil revenues in social and economic infrastructure, health and education and in so doing has improved the standard of living for UAE citizens.[67]

Education has been consistently prioritised. In 2010, the UAE launched its National Agenda Vision 2021which prioritized education and this has continued with UAE Vision 2021 National Agenda aiming to transform the education system and also prioritizing health.[68] In health, the UAE leadership prioritized investments in healthcare, adequate nutrition and sanitation.[69] By 1995, UNDP reported 99% of the population could access health services by foot or the local means of transport in not more than an hour. [70]



[66] Ali Elwerfelli and James Benhin, 'Oil a Blessing or Curse: A Comparative Assessment of Nigeria, Norway and the United Arab Emirates' (Theoretical Economics Letters, Vol.8 No.5, April 2018) DOI: 10.4236/tel.2018.85076 accessed 17 May 2024.

[67] Ibid.

[68] The Cabinet of United Arab Emirates, 'UAE National Agenda' https://uaecabinet.ae/en/national-agenda

[69] Muhammad Zayyad Umar, 'The Impact of leadership and Oil in the Economic Transformation of the United Arab Emirate: Historical Perspectives' (Direct Research Journal of Social Science and Educational Studies, Vol. 7 (5), pp. 89-95, June 2020 ISSN 2449-0806) DOI: https://doi.org/10.26765/DRJSSES0523315973

[70] Muhammad Zayyad Umar, 'The Impact of leadership and Oil in the Economic Transformation of the United Arab Emirate: Historical Perspectives' (Direct Research Journal of Social Science and Educational Studies, Vol. 7 (5), pp. 89-95, June 2020 ISSN 2449-0806) DOI: https://doi.org/10.26765/DRJSSES0523315973

[71] Muhammad Zayyad Umar, 'The Impact of leadership and Oil in the Economic Transformation of the United Arab Emirate: Historical Perspectives' (Direct Research Journal of Social Science and Educational Studies, Vol. 7 (5), pp. 89-95, June 2020 ISSN 2449-0806) DOI: https://doi.org/10.26765/DRJSSES0523315973

UAE has economically diversified and is not solely relying on oil and gas revenues with oil production currently comprising one third of the GDP.[72] It is also a major international tourist and business centre, and invested heavily in modern infrastructure and education.[73]

The UAE experience with oil revenue shows that investment in education and healthcare, are important and necessary conditions to enhance human capital as a key driver for economic growth and diversification.

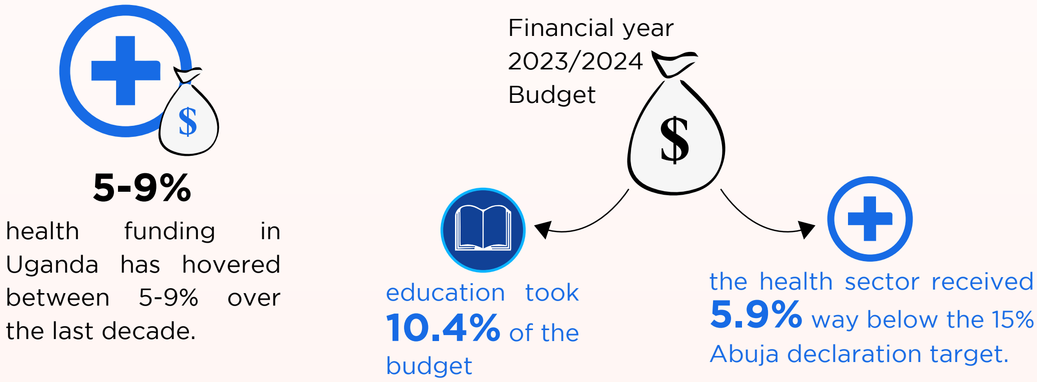
72 Haouas & Heshmati

73 Elwerfelli & Benhin

3.0 WHY UGANDA SHOULD HARNESS NATURAL RESOURCES TO FUND PUBLIC SERVICES

Public services in Uganda continue to remain under financed. Despite citizens persistent cries about the poor quality of healthcare in public health facilities, which for example face persistent drug stockouts,[74] health funding in Uganda has hovered between 5-9% over the last decade.[75] Last financial year 2023/2024, the health sector received 5.9% of the budget way below the 15% Abuja declaration target.[76] It has not changed much in the FY 2024/25 budget.

In the education sector, Uganda falls short of international targets (5 percent of GDP and 20 percent of Total Budget as per the Dakar declaration), in FY 2023/24, education took 10.4% of the budget.[77] It took up 2.2 percent of GDP.[78]



Similarly, whereas nominal and real spending on social protection has been steadily increased over the past five years, per capita spending on social protection has remained very low and inadequate.[79]

74 ISER (2024) No! We Do Not Have That Drug Now, https://iser-uganda.org/wp-content/uploads/2024/04/No.-We-do-not-have-that-drug-now.pdf

75 Initiative for Social Economic Rights (ISER), 'ISER Position on the Proposed 2023/24 Health Budget for Uganda' (April, 2023) https://iser-uganda.org/wp-content/uploads/2023/04/Position-Paper-on-Proposed-2023-24-Health- Budget.pdf

76 Parliament of Uganda Minority Report FY 2024/25 (on file with author).

77 Ibid.

78 United Nations Children's Fund (UNICEF) Uganda, 'Sustaining Gains in the Education Sector | financial year 2023/24' (October 2023) https://www.unicef.org/uganda/media/15991/file/Sustaining%20the%20gains%20in%20the%20education%20sector%20.pdf

79 United Nations Children's Fund (UNICEF), 'Uganda, Securing Public Investment in Social Protection | financial year 2023/24' (October 2023) https://www.unicef.org/esa/media/13266/file/UNICEF-Uganda-Social-Protection-Budget-Brief-2023-2024.pdf

Financing for social protection has not exceeded 1% of GDP, with government funding only at 0.4% GDP.[80]

Uganda's investment in health, education and social protection has been primarily donor funded.[81] This makes funding for these critical public services precarious. In August 2023, the World Bank released a statement that no new public financing to Uganda will be presented to its Board of Executive Directors.[82]

Uganda's support from donors dwindled from **Shs 2.781 trillion in 2023/24** to **Shs 28.9 billion** in the coming budget **of 2024/25.**[83]

It is also reported that the health sector will be among the worst hit with a predicted decrease of 49% in foreign aid for the sector and a budget of Shs. 4 trillion, where foreign funding accounts for the lion's share of Uganda's healthcare spending[84] necessitating Uganda implement self-financing measures for the health sector to counteract the rapidly decreasing funding from international donors.[85]

Amidst rising debt with Uganda spending more on debt financing than on health and education combined,[86] relatively low levels of domestic resource mobilisation, it is important to identify sources of funding that Uganda can rely upon to adequately finance public services like healthcare, social protection and education.

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80 ISER (2024) The African Protocol on the Rights of Citizens to Social Protection and Social Security: How Does Uganda Measure Up?, https://iser-uganda.org/publication/the-protocol-to-the-african-charter-on-human-and-peoples-rights-on-the-rights-of-citizens-to-social-protection-and-social-security-how-does-uganda-measure-up/; ISER (2023), 'ISER's Position on the 2023 Social Protection Budget' https://iser-uganda.org/wp-content/uploads/2023/05/ ISER-Position-on-the-2023-24-Social-Protection-Budget-1.pdf

81 Ibid.

82 The World Bank, 'World Bank Group Statement on Uganda' (August 8, 2023) https://www.worldbank.org/en/news/-statement/2023/08/08/world-bank-group-statement-on-uganda#:~:text=No%20new%20public%20financing%20to,take%20corrective%20action%20as%20necessary

83 Geofrey Serugo, 'Public debt projected to reach Shs 109.1 trillion' (*The Observer, January 17 2024*) https://observer.ug/news/headlines/80305-public-debt-projected-to-reach-shs-109-1-trillion accessed February 27 2024; The BPF FY 2024/25

84 Guyson Nangayi, 'Africa's Uganda reports shrinking foreign aid, healthcare to be badly hit.' (*Development Aid, 16 February 2024*) https://www.developmentaid.org/news-stream/post/174775/uganda-reports-shrinking-foreign-aid

85 Ibid.

86 Parliament of Uganda, Minority Report on Annual Budget for FY 2024/25,

3.1 Oil and Gas Revenues

Uganda has significant oil deposits. By 2014, the World Bank predicted oil peak production for Uganda would bring in revenue of almost USD3bn per year while the Oxford Centre for the Analysis of Resource Rich Economies (Oxcarre) estimates the Government would receive USD20bn for its oil over the life of the project with a 7% discount rate.[87] Projections from 2020 reveal recoverable oil reserves range from between 1.2bn and 1.7bn barrels, with projected oil revenues peaking at US$ 4,536 m and on average over thirty three years it would be US $ 2,116m in constant 2018 US$ terms.[88] This amounts to about US$ 83 per capita at peak oil and US$ 38 per capita when averaged over thirty-three years.[89]

Although climate change and pivoting to renewable energy will affect the present context for investment in Uganda's oil sector, prudent management of Uganda's oil resources can be a game changer for the country's economic growth and development if it puts in place necessary frameworks.[90] The developments in the oil sector could catalyse the realization of the third National Development Plan targets.[91] At peak production, Uganda's oil revenues could offset the current external financing, at 3-4% of GDP; expand Uganda's exports by 5% GDP, almost double the country's current rate of economic growth.[92]

Like Indonesia and other African countries such as Nigerian, Ghana, Uganda opted for production-sharing agreements (PSA) to acquire the economic rent from the oil resource.[93] Uganda's PSA arrangement consists of a basic royalty, levied at the start of production, on gross revenue per barrel of oil produced.[94] Private partners will recoup their investment from the

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87 Wilson Bahati Kazi & Babra Beyeza, 'Getting a Good Deal? An Analysis of Uganda's Oil Fiscal Regime' (Centre for Research on Peace and Development (CRPD), Working Paper No. 64, December 2018) https://soc.kuleuven.be/crpd/files/working-papers/crpd-no-64-kazi-beyeza-full.pdf

88 Wolf Sebastian and Vishal Aditya Potluri, 'Uganda's Oil: How Much, When, and How Will It Be Governed?', in John Page, and Finn Tarp (eds), *Mining for Change: Natural Resources and Industry in Africa* (Oxford, 2020; online edn, Oxford Academic, 19 Mar. 2020), https://doi.org/10.1093/oso/9780198851172.003.0014

89 Ibid.

90 Ibid

91 Ogwang Ambrose, 'Does Uganda have the necessary frameworks to manage oil funds?' (*Economic Policy Research Centre (EPRC),* 7 July 2022), https://eprcug.org/eprc-highlights/does-uganda-have-the-necessary-frameworks-to-manage-oil-funds/

92 Rachel K. Sebudde and Ekaterina M.Gratcheva (2021), Oil Revenue Management – Closing Gaps in the Fiscal and Savings Frameworks to Maximize Benefits, EFI Insight-MTI and Finance. Washington, DC: World Bank) https://documents1.worldbank.org/curated/zh/873501591694701210/pdf/Uganda-Oil-Revenue-Management-Closing-Gaps-in-the-Fiscal-and-Savings-Frameworks-to-Maximize-Benefits.pdf

93 Ibid.

94 Ibid.

oil revenues that emanate.[95] The government and company divide what is often deemed "profit oil," what is essentially left after taking into account the royalty and cost recovery.[96]

Government revenue consists of:

a) royalties imposed on gross production revenues;
b) 30% income taxes on profit oil (after recovery of exploration costs),
c) "capital gains whenever there are changes in ownership rights in the fields" and additional indirect taxes e.g the withholding tax on dividends;
d) pipeline levy;
e) other revenues for example bonuses, surface rentals, fees.[97]

As of June 2021, the Accountant General's office reported that the Petroleum Fund received funds totaling UGX 155,010,143,377Bn compared to UGX 35,479,839,920Bn reported in June 2020, indicating a 401 per cent increase in revenue collected over the reporting period.[98] As at the reporting period, the value of the fund was UGX 238.68Bn compared to UGX 88.34Bn as at 30th June 2020.[99]

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[95] World Bank, Uganda Oil Revenue Management, https://documents1.worldbank.org/curated/en/ 873501591694701210/pdf/Uganda-Oil-Revenue-Management-Closing-Gaps-in-the-Fiscal-and-Savings-Frameworks-to-Maximize-Benefits.pdf

[96] Ibid.

[97] Ibid.

[98] Accountant General's Office, Ministry of Finance, Planning and Social Development (MoFPED), 'Petroleum Fund Audited Reports and Annual Finance Statements for the Financial Year 2020/2021' (June 2021) https://www.finance.go.ug/sites/default/files/2023-06/ANNUAL%20AUDITED%20REPORTS%20AND%20FINANCIAL%20STATEMENTS%20FOR%20THE%20PETROLEUM%20FUND%20FOR%20THE%20PERIOD%20ENDED%2030TH%20JUNE%202021.pdf

[99] Ibid.

3.2 Legal and Fiscal Framework in Uganda for Oil Revenue Management

Uganda's legal and policy framework for commercialisation of oil and gas been gradually strengthened since 2006. These include: the National Oil and Gas Policy (2008);[100] Oil and Gas Revenue Management Policy (2012);[101] The Petroleum (Exploration, Development and Production) Act (2013)[102] and the Petroleum (Refining, Conversion, Transmission and Midstream Storage) Act (2013)[103], and the Public Finance Management Act (PFMA) (2015).[104]

The PFMA in particular is heralded as a landmark legislation for its inclusion of the management of oil resources.[105] It sets out the development of the Charter for Fiscal Responsibility, the Petroleum Revenue Fund,[106] and the Petroleum Revenue Investment Reserve[107] or a Sovereign Wealth Fund. The PFMA sets out the Petroleum Revenue Fund, Petroleum Revenue Investment Fund and the Investment Advisory Committee. Uganda is yet to approve a fiscal rule to guide the process of appropriation and investment of petroleum revenue,[108] lacks Petroleum Revenue Investment Policy and the Investment framework,[109] which are key to ensure Uganda truly benefit from its oil windfalls.[110]

Under the PFMA, all petroleum revenues, the Uganda Revenue Authority (URA) should collect all oil revenues and pay them into the Petroleum Fund. It is strict about withdrawals from the Fund, which shall only be made "under authority granted by an Appropriation Act and a warrant of the Auditor General."[111]

Certain withdrawals from the Petroleum Fund to the Consolidated Fund can be made per Section 59 PFMA for budget support. However, the PFMA forbids the use of petroleum

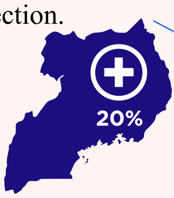
100 National Oil and Gas Policy Uganda, 2008
101 The Oil and Gas Revenue Management Policy, 2012.
102 The Petroleum (Exploration, Development and Production) Act, 2013.
103 The Petroleum (Refining, Conversion, Transmission and Midstream Storage) Act, 2013.
104 The Public Finance Management (PFMA) Act, 2015.
105 Saad Asmahaney, 'Oil Revenues in Uganda- Can We All Benefit?' (KTA Advocates, 13 April 2021), https://www.ktaadvocates.com/oil-revenues-in-uganda-can-we-all-benefit/
106 The Public Finance Management Act, s.59.
107 The Public Finance Management Act, s.62.
108 Martin Kitubi, 'Oil funded projects not named- Auditor General' The New Vision (Kampala, Tuesday February 18, 2020) Page 19 https://www.oag.go.ug/storage/newsarticles/L1646151873B.pdf
109 Ibid.
110 Paul Bagabo, 'Uganda's Oil Revenue Management Framework is a Solid Start, but Not Nearly Enough' (*Natural Resource Governance Institute,* 6 October 2015), https://resourcegovernance.org/articles/ugandas-oil-revenue-management-framework-solid-start-not-nearly-enough
111 The Public Finance Management Act, s.58

revenue for recurrent expenditure and only permits its use to finance infrastructure and development projects of the Government.[112]

Uganda must avoid Sovereign Wealth Funds (such as Petroleum Fund) being used as slush funds or for patronage and corruption, as seen in Azerbaijan, Libya and Venezuela necessitating improving the PFMA. A number of incidents below reflect why this must be prioritised revealing violations of the PFMA requirements governing withdrawals from the Petroleum Fund.

- 2011 Government agreed to pay a Russian arms exporter a $740 million advance for the purchase of six fighter jets, a one-off discretionary expenditure that would be repaid by future oil revenues.[113] This amounted to a quarter of the FY 2011/2012 national budget and quadrupled the combined education and health budgets for that year.[114]
- January 2017, 42 government officials receive a *"presidential handshake"* of six billion Uganda shillings had been paid to 42 government officials for aiding in the recovery of Shs 1.5 trillion in capital gains tax owed from Heritage Oil & Gas.[115]
- 2021, 200Bn is appropriated by Parliament from the Petroleum Fund without a clear work plan. This contravenes Section 59 (5) of PFMA which requires the annual cash flow plan of the government before funds are withdrawn from the Petroleum Fund and transferred to the Consolidated Fund.[116]

Like many oil producing countries, Uganda faces the conundrum between spending on budget support and saving for future generations. However, spending on public services mitigates that. The human development programme should be prioritised with a focus on health, education and social protection.



Uganda could cover 20% of its health financing needs from smoothing revenues over the next 30 years (as a share of GDP).[117]

112 The Public Finance Management Act, s.59

113 Kathleen Brophy and Peter Wandera 'Keeping Corruption in Check in Uganda's Oil Sector? Uganda's Challenge to Let Everybody Eat, and not Just the Lucky Few' *Centre for Research on Peace and Development (CRPD) Working Paper No. 59* (December 2018) https://soc.kuleuven.be/crpd/files/working-papers/crpd-no-59-brophy-wandera-full.pdf

114 Y. Mugerwa, 'MPs want Mutebile, minister sacked' The Monitor News Paper (Kampala, Uganda Tuesday, May 19, 2015 — updated on January 19, 2021) https://www.monitor.co.ug/News/National/MPs-want-Mutebile--minister-sacked/-/688334/2722692/-/bttrno/-/index.html

115 Brophy and Wandera n.113

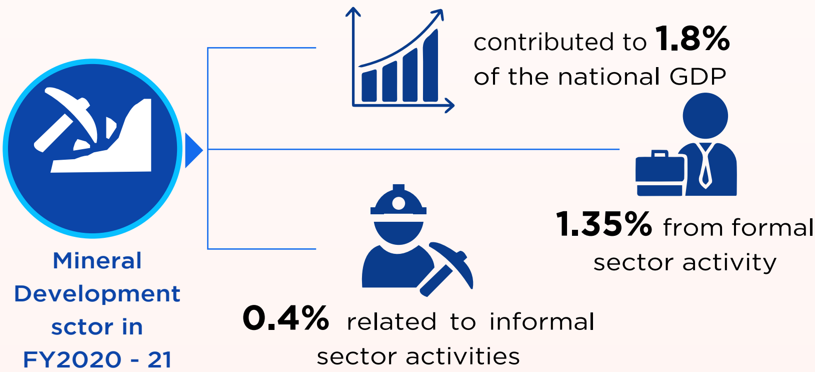
116 The Observer, 'Gov't lacks work plan for UGX 200Bn withdrawn from Petroleum fund' (9 May 2021) https://www.independent.co.ug/govt-lacks-work-plan-for-ugx-200bn-withdrawn-from-petroleum-fund/

117 Langer, Arnim, Ukoha Ukiwo, and Pamela Mbabazi, eds. Oil Wealth and Development in Uganda and Beyond: Prospects, Opportunities, and Challenges. Leuven University Press, 2020. *JSTOR*, https://doi.org/10.2307/j.ctvt9k690

A number of scholars and prominent politician Prof Ezra Seruma have called for a portion of oil revenues to be channelled to social protection.[118] Mawejje (2020) argues that oil revenues should be used to support agricultural sector transformation, human capital development and social protection among others in order to have people centred development.[119]

3.1.2 Mining

Uganda is endowed with an abundance of natural resources. The 2013 geological survey indicates that Uganda has a favourable geological environment that hosts over 27 commercially exploitable mineral resources.[120] Thus, the mineral development sector in Uganda has a strong opportunity to sustainably contribute to economic growth of the country.[121] In the FY2020-21 it contributed to 1.8% of the national GDP on current basic prices including 1.35% from formal sector activity and 0.4% related to informal sector activities.[122]



Uganda has Iron ore reserves of about 350 million tonnes, over 1 billion tonnes of Marble, approximately 12 million ounces of Gold, 1.7 billion tonnes of Graphite, 300 million tonnes of

[118] Gelb, Alan and Majerowicz, Stephanie, Oil for Uganda – or Ugandans? Can Cash Transfers Prevent the Resource Curse? (August 15, 2011). Center for Global Development Working Paper No. 261, Available at SSRN: https://ssrn.com/abstract=1910111 or http://dx.doi.org/10.2139/ssrn.1910111;

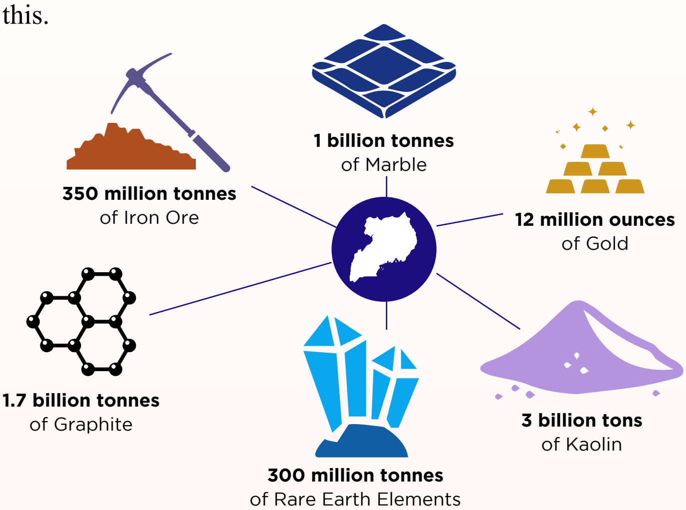
[119] Mawejje, Joseph, et al. "Oil Revenues and Social Development in Uganda." Leuven University Press, 2020, pp. 149–172. Prospects, Opportunities, and Challenges, http://www.jstor.org/stable/j.ctvt9k690.13.

[120] Uganda Investment Authority (UIA),' Mining Sector Profile) https://www.ugandainvest.go.ug/uia/images/Download_Center/SECTOR_PROFILE/Mining_Sector_Profile.pdf

[121] National Planning Authority (NPA) in Collaboration With Africa Centre For Energy & Mineral Policy (ACEMP) 'Measure it to Manage it, The Second Annual Mining and Mineral Sector Development Score Card FY 2017/2018' (August 2020) https://acemp.org/sites/default/files/2020-08/Second-Annual-Mining-and-Mineral-Scorecard.pdf

[122] DT Global, 'Uganda Extractives Industries Transparency Initiative (UGEITI) Report for Fiscal Year 2020-21'(June 2023) https://eiti.org/sites/default/files/2023-09/UGEITI%20Report%20FY%202020-21%20-%20Final%20clean-V070923.pdf

proven reserves of Rare Earth Elements (REE) and an estimated 3 billion tons of Kaolin.[123] Gold is now the largest export commodity in Uganda, contributing 37 percent of export revenues.[124] Copper which was the highest mined mineral in the 1960's is now increasingly critical as climate change necessitates an energy transition which will require minerals like copper to power this.



Under Article 244 of the Constitution,[125] the Government of Uganda holds mineral rights on behalf of and for the benefit of the people of Uganda.[126] The Mining and Minerals Act 2022 (MMA) and the Mining and Mineral Policy for Uganda 2018 are key legal and policy frameworks guiding the sector. Under the MMA, the Uganda National Mining Company manages the State's strategic commercial interests in the mineral sub sector.[127] However, an individual or legal entity can obtain a prospecting, exploration, retention or mining license so as to acquire the right to prospect, explore for, retain, mine, process, refine, smelt, fabricate or dispose of any mineral in Uganda.[128]

Per the MMA, there are several ways the government can collect revenue including the payment of royalties on all minerals obtained or mined in the course of prospecting, exploration

123 Uganda Extractives Industries Transparency Initiative (UGEITI),'Extractive Sector in Uganda' https://www.ugeiti.org/extractive-sector-in-uganda/
124 Dorothy Nakaweesi, 'Gold reclaims spot as Uganda's largest export commodity' (Monitor, Wednesday, April 24, 2024) https://www.monitor.co.ug/uganda/business/commodities/gold-reclaims-spot-as-uganda-s-largest-export-commodity--4601492
125 The 1995 Constitution of the Republic of Uganda
126 The Mining and Minerals Act 2022, s.9.
127 The Mining and Minerals Act 2022, s. 21 & 22.
128 The Mining and Minerals Act 2022, s.12.

or mining operations, annual mineral rents, fees, charges and taxes (income and capital gains tax).[129]

To adequately harness the resources from the mining sector, Uganda must rethink its tax regime. As a whole, the Ugandan tax regime is less effective than many of its sub-Saharan counterparts, tax collections total less than 14% of GDP below the 18% average for sub-Saharan countries.[130] OECD reports indicate that in 2021, Uganda's tax to GDP ratio was at 12.2%, lower than the average of other African Countries at 15.6%.[131] While the World Bank's minimum desirable tax to GDP ratio is 15%, even at that level, "revenues are inadequate to finance basic state functions."[132] Revenue is often lost through generous tax incentives and tax holidays- revenue loss from corporate tax incentives peaked at US$42 million in 2020, and widespread tax avoidance by multinational companies who pay less corporate income tax than large domestic firms.[133] The URA did not levy taxes on 22 mineral categories that had a sh 72.4 billion export value.[134] Despite gold being one of the top export, a minority report for the Budget Committee MPs highlighted how government was failing to adequately collect taxes from gold exports resulting in an unmet gap in the nation's resource envelope, government should have at least collected 52.2 billion in taxes.[135]

From the mining sector, Uganda loses money through illicit financial flows (IFFs). IFFs arise along the mineral chain starting from licencing to over or under priced whether through trade mis-invoicing,[136] transfer mispricing or triangulation trade to reduce the tax bill for the multinational company.[137] Uganda must step up its efforts to address illicit financial flows (IFFs) estimated to be in excess of UGX 2 trillion annually.

As external funding continues to decline, it is crucial that Uganda curb tax leakages in the mining sector to increase the fiscal space for financing public services.

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129 The Mining and Minerals Act 2022, s.180- 182 & s.190

130 Maria Jouste,' Uganda's tax system isn't bringing in enough revenue, but is targeting small business the answer?' (The Conversation, April 29 2024) https://theconversation.com/ugandas-tax-system-isnt-bringing-in-enough-revenue-but-is-targeting-small-business-the-answer-228630

131 OECD, 'Revenue Statistics in Africa 2023 — Uganda' (*OECD/ATAF/AUC 2023, OECD Publishing, Paris*) https://www.oecd.org/tax/tax-policy/revenue-statistics-africa-uganda.pdf accessed 19 May 2024.

132 ISER, 'Curb Illicit Financial Flows to Fund Quality Public Social Services in Uganda' (2022) https://iser-uganda.org/wp-content/uploads/2022/07/Curb_Illicit_Financial_Flows.pdf

133 Jouste (n. 130)

134 Muhammad Kakembo, 'Gold tax evasion: MPs release damning report' (The Observer, February 8, 2024) https://observer.ug/index.php/news/headlines/80505-gold-tax-evasion-mps-release-damning-report accessed 2 May 2024.

135 Ibid.

136 It refers to a practice by importers and exporters who deliberately falsify the declared value of goods on the invoices they submit to their customs authorities, largely for tax evasion purposes

137 ISER, n. 132

4. CONCLUSION AND RECOMMENDATIONS

Public services are rights to which states must dedicate maximum available resources and also intergral to inclusive growth. As African states navigate poly crises of high debt, climate change, cost of living crisis, it is crucial to expand the fiscal space to accommodate the increased spending pressures.[138]

To offset the decline in natural wealth caused by the extraction of natural resources, a portion of the revenues generated must be invested in public services. The case for investing natural resource revenues specifically to improve health and education services and social protection is strong. This includes developing human capital through quality education and health care which will have a ripple effect on increased GDP, a more diversified economy, more inclusive growth and will contribute to more stable societies.

RECOMMENDATIONS

1. Allocate a portion of revenue received from natural resources to fund public services.
2. Strengthen the legal framework around natural resources and enhance public finance management.
3. Curb Illicit Financial Flows.
4. Adequately tax natural resources.
5. Increase transparency and accountability including by providing access to information.
5. Ensure meaningful participation of the populance.

[138] Ssebude and Ekaterina, n. 92

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Ann-Jinette Hess, 'How Botswana has Avoided the Resource Curse' (The Borgen Project, November 30, 2023) https://borgenproject.org/avoided-the-resource-curse/#:~:text=How%20did%20Botswana%20avoid%20the,managed%20the%20nation's%20diamond%20wealth

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