

Possible Contribution by BRICS to the AfCFTA: Towards Economic Development and Consequently the Enforcement of Socio-economic Rights in Africa

*By Katlego Arnold Mashego**

As of 1 January 2025, BRICS have three African Countries, which includes the current member, South Africa and the two newly admitted countries, Egypt and Ethiopia. The author will argue that this is a gain for Africa. With the AfCFTA being hope for economic boost in Africa, it is anticipated that BRICS will as well add to economic development in Africa. The author will argue that economic development in Africa is an urgent matter that needs urgent attention, and all the available opportunities must be seized. The argument being that the economic development will consequently lead to the enforcement of socio-economic rights. Poverty rates in Africa are shocking, it has been reported that most poverty is concentrated in the Sub-Saharan Africa region, poverty at one of the sub-regions of Africa is above 50%. This author will also argue that in order for Africa to address its challenges, particularly, the economic development challenges, African leaders must work together towards achieving common goal, which is economic development. Also, Africa must deepen relations, particularly with those states that share similar challenges with Africa.

Keywords: *Africa; socio-economic rights; AfCFTA; BRICS; African leaders.*

Introduction

African countries which are currently member of BRICS are South Africa (which has been a member for some time), and the two newly admitted members which were admitted on 1 January 2024, which are Egypt and Ethiopia.¹ Meaning Brazil, Russia, India, China and South Africa (hereinafter referred to as BRICS) has three Africa countries, and it will be argued this paper that this is a gain for Africa. With the African Continental Free Trade Area (hereinafter referred to as AfCFTA) being hope for economic boost in Africa, it is anticipated that BRICS will as well add to economic development in Africa.

It will be argued in this paper that economic development in Africa is an urgent matter that needs urgent attention, and all the available opportunities must be seized, and BRICS is one of those opportunities. The argument being that the economic development will consequently lead to the enforcement of socio-economic rights. Poverty rates in Africa are shocking, it has been reported that most poverty is concentrated in the Sub-Saharan Africa region, poverty at one of the sub-regions of

*LL.D. candidate, Lecturer, Tshwane University of Technology, Pretoria, South Africa.
Email: kat.vsp@gmail.com

¹BRICS Brazil (2025).

Africa is above 50%.² Zooming deep into Africa, it has been reported that Central Africa has the highest extreme poverty rate of 54.8%, followed by Southern Africa at 45.1%, then Western and Eastern Africa are 36.8% and 33.8% respectively. North Africa met the Sustainable Development Goal (SDG) target of a poverty rate below 3% in 2019.³ This author will also argue that in order for Africa to address its challenges, particularly, the economic development challenges, African leaders must work together towards achieving common goal, which is economic development. Also, Africa must deepen relations, particularly with those states that share similar challenges with Africa, BRICS nations in particular.

As suggested by the title of this paper, this paper investigated possible contribution by BRICS to the AfCFTA towards economic development and consequently the enforcement of socio-economic rights in Africa. Further, the paper will show that it is possible for Africa to have a strong economy, but it must seize all available opportunity that will lead to that strong economy.

Socio-economic Rights in Africa

The discourse of this paper is to make one be able to understand that in Africa economic development and the enforcement of socio-economic rights go hand in hand. Also, that one cannot speak of economic development and the enforcement of socio-economic rights in Africa without highlighting colonialism which affected Africa abominably. Colonialism has seen the colonisers deriving out of Africa socio-economic benefits for the colonial powers at the expense of the livelihoods of the colonised people, the Africans.⁴ This led to Africa remaining poor while the countries of the colonisers became rich out of the resources of Africa.⁵

The history of socio-economic rights emanates and traces on a global scale from the Universal Declaration of Human Rights,⁶ of 1948, (UDHR) which covered both socio-economic rights and civil and political rights and later divided into two covenants. On the African regional level, it is submitted that the history of socio-economic rights enforcement emanates from the African Charter on Human and Peoples' Rights⁷ (hereinafter the African Charter), which was adopted on 27 June 1981.

Governments have four major tiers of obligations, they must, 'respect', 'protect', 'fulfil', and 'promote' human rights.⁸ Human rights protection function at four levels,⁹ the inner layer, forming the core of protection, is the national level, sometimes referred to as domestic or municipal, here we speak of the states themselves.

²Institute for Security Studies (2022).

³Institute for Security Studies (2022).

⁴Chirwa & Chenwi (2016a) at 6.

⁵Chirwa & Chenwi (2016a) at 4.

⁶UN General Assembly, Universal Declaration of Human Rights, 10 December 1948, 217 A (III).

⁷African Charter on Human and Peoples' Rights.

⁸Viljoen (2012) at 6.

⁹Viljoen (2012) at 5.

After this layer, is the sub-regional level, for instance a number of states working together, such as those in certain regions of the continent, for example, the Southern African Development Community (SADC), SACU (Southern African Customs Union), COMESA (Common Market for Eastern and Southern Africa) and the Economic Community of West African States (ECOWAS). This is then followed by the regional level comprising of states situated in a particular continent or in a hemisphere, for instance the AU or European Union. Lastly, the global level, which is under the auspices of the United Nations (hereinafter referred to as the UN).

International human rights law was established as a normative beacon, beckoning states to an internationally agreed upon minimum standards of behaviour, and as a 'safety net' for individuals who are denied their rights under domestic system, or who fall through the cracks of the national legal system.¹⁰ Any individual, for instance, in any African state who is of the view that his/her rights are being infringed and is not satisfied with the decision of his or her respective state regarding the infringement may approach for instance the African Court.¹¹

It is evident that socio-economic rights have short history in many countries in the world, particularly in Africa.¹² The focus was initially on civil and political rights, the so-called first-generation rights.¹³ As already alluded to, this is because enforcement of socio-economic rights depends on the state of the economy, and the effective and efficient of management of the economic resources.¹⁴

The African Commission has found Nigerian government in violation socio-economic rights that are implied in the African Charter, rights to food and housing/shelter.¹⁵ In South Africa, the South African Constitution is known for its commitment to socio-economic rights,¹⁶ there are number of cases that address socio-economic rights in South Africa.

The *Government of the Republic of South Africa and Others v Grootboom and Others*¹⁷ (hereinafter *Grootboom*), is one of the most relevant in terms of 'progressive realisation' of socio-economic rights, where the Constitutional Court held that section 26(2) of the South African Constitution requires the state to devise and implement within its available resources a comprehensive and coordinated programme progressively to realise the right of access to adequate housing.¹⁸ On that note, enforcement of socio-economic rights positively can be problematic and deserving collective transformation policy agenda in Africa.¹⁹ For the socio-economic rights, a minimum level of economic development is necessary for effective and efficient enforcement.²⁰

¹⁰Viljoen (2012) at 9.

¹¹African Charter on Human and People's Rights.

¹²Shehu (2013) at 105.

¹³Shehu (2013) at 101.

¹⁴Shehu (2013) at 101.

¹⁵*Social and Economic Rights Action Center & the Center for Economic and Social Rights v. Nigeria* (Communication No. 155/96).

¹⁶Chenwi L (2011) at 427.

¹⁷*Government of the Republic of South Africa and Others v Grootboom and Others (CCT11/00) [2000] ZACC 19; 2001 (1) SA 46; 2000 (11) BCLR 1169 (4 October 2000).*

¹⁸*Government of the Republic of South Africa and Others v Grootboom and Others (CCT11/00) [2000] ZACC 19; 2001 (1) SA 46; 2000 (11) BCLR 1169 (4 October 2000) para 99.*

¹⁹Shehu (2013) at 105.

²⁰Jaconelli (1984) at 87.

As much as great focus is given on the state of the economy, one cannot ignore corruption, which prevails, in many if not all African states and hinders progress. Viljoen argues that corruption is a serious problem in Africa, not only hindering progress towards 'good governance', but also undermining the protection of human rights²¹. Corruption is a worldwide phenomenon; hardly is there any nation in the world today without one form of corruption or the other.²²

The International Council on Human Rights Policy (ICHRP) has demonstrated how corruption is capable of impacting negatively on the enforcement of socio-economic rights, whether rights to food, through diversion of essential resources from social spending and corrupt practices in relation to the possession and use of land and natural resources²³. The continent must be ready to fight corruption to the roots in order for socio-economic rights to be enforced fully.²⁴

Mbazira argues that the African Charter, in addition to the civil and political rights, protects a wide range of economic, social and cultural rights. But, in spite of this, the majority of the people in Africa live in poverty, disease and ignorance and lack of basic necessities of life, such as, water, food, housing, clothing and health care.²⁵

While it is evident that Africa has considerable natural resources, the problem is therefore not scarcity of resources,²⁶ but lack of appropriate legal mechanisms that will focus on developing the African economy. It would seem that African countries have to grapple with the problem of appropriately channeling available resources in the enforcement of the socio-economic rights, for example, the Nigerian government allocated resources towards building a stadium while there was a need for certain socio-economic rights to be addressed at the time.²⁷

Socio-economic rights are to be recognised, must be seen to be relevant²⁸ and are acknowledged²⁹ as opposed to in the past were civil and political rights were mostly attended to and not the socio-economic rights. However, despite the fact that Africa is a resource-rich continent,³⁰ many of Africa's citizens do not benefit from socio-economic rights due to their respective countries not having the means to enforce such rights – reports show that poverty in Africa affects close to 50 percent of the African population.³¹ The researcher submits that this study is significant because it explores the link between economic development and the enforcement of socio-economic rights in Africa and it suggests possible solutions to this problem.

The author makes recommendation for the gradual enforcement of socio-economic rights which must be preceded by the enforcement of domesticated laws

²¹Viljoen (2012) at 292.

²²Shehu (2013) at 117.

²³International Council on Human Rights Policy (2009).

²⁴Shehu (2013) at 101.

²⁵Mbazira C (2007).

²⁶Agbakwa (2002) at 189.

²⁷Agbakwa (2002) at 180.

²⁸Chirwa & Chenwi (2016a) at 3.

²⁹Chirwa & Chenwi (2016a) at 3.

³⁰Viljoen (2012) at 544.

³¹United Nations Development Programme (UNDP), MDG Report 2015: Assessing Progress in African towards the Millennium Development Goals (2015) xiii.

originating from the African Union. The African Charter which could be regarded as the ‘constitution’ of the member states of the AU among other human rights, guarantees a list of socio-economic rights. It cannot be denied that Africa needs an urgent and robust plan on economic development because a number of African nation states are grappling with crippling economies.³²

In addition, part of the Declaration at the 1945 pan-African Congress, for instance read:

*‘We are determined to be free. We want education. We want the right to earn a decent living; the right to express our thoughts and emotions, to adopt and create forms of beauty. We will fight in every way we can for freedom, democracy, and social betterment’.*³³

EI-Obaid and Appiagyei-Atua have argued that a rights discourse was an important tool of independence movements, this led to several post-colonial constitutions embodying a bill of rights.³⁴ They continue to argue that the debate about the human-rights in Africa is a reflection of the continent's political and legal history. They argue that any discussion of human rights in Africa must be grounded in the political and ideological history of the continent, they identified four broad periods that they deem that they must be covered, namely, the pre-colonial period, the colonial period, the post-colonial (the struggle for independence) and the contemporary period.³⁵

Economic Development in Africa

The history of economic development in Africa can be traced from 25 May 1963 when the Organisation of African Unity (hereinafter referred to as the OAU) was formed in Addis Ababa, Ethiopia. After the OAU, the African Union (hereinafter AU),³⁶ was officially launched on 9 July 2002 in Durban, South Africa, following a decision by its predecessor, the OAU. The decision to re-launch Africa’s pan-African organisation was the outcome of a consensus by African leaders that in order to realise Africa’s potential, there was a need to refocus attention from the fight for decolonisation and ridding the continent of apartheid, which had been the focus of the OAU, towards increased cooperation and integration of African states to drive Africa’s growth and economic development.³⁷

³²Arieff I ‘If Africa Is So Rich, Why Is It So Poor?’ available at <https://www.passblue.com/2015/05/18/if-africa-is-so-rich-why-is-it-so-poor/> (accessed 1 February 2020).

³³EI-Obaid EA and Appiagyei-Atua K ‘Human Rights in Africa – A New Perspective on Linking the Past to the Present’ (1995) 41 *McGill Law Journal* 823.

³⁴EI-Obaid EA and Appiagyei-Atua K ‘Human Rights in Africa – A New Perspective on Linking the Past to the Present’ (1995) 41 *McGill Law Journal* 819.

³⁵EI-Obaid EA and Appiagyei-Atua K ‘Human Rights in Africa – A New Perspective on Linking the Past to the Present’ (1995) 41 *McGill Law Journal* 821.

³⁶The African Union was established by the Constitutive Act, adopted in Lomé, Togo on 11 July and entered into force on 26 May 2001.

³⁷AU website available at <https://au.int/en/overview> (accessed 08 June 2020).

It must be noted that African economic performance improved with the progressive implementation of measure that promote free trade,³⁸ and this forms the basis of the argument in this paper that African countries needs to focus more on AfCFTA and also the BRICS to address the economic development and in that way socio-economic rights will be addressed. As Falk argues, ‘research strongly suggests that most Third World countries possess the resources to eliminate poverty and satisfy basic human needs if their policy makers were so inclined.’³⁹

For the socio-economic rights to be enforced, countries in Africa need to have good economies and good economies in Africa particularly, require regional laws⁴⁰ of trade that are feasible to the African States. There is an economic argument that explains why African economies are failing, it was found that the reason for failure of African economies is due to the fact that they have just been incorporated in the global economy system that is seen to be favouring industrialised countries.⁴¹

The above complements the argument made in this research that Africa needs to focus on trading with itself most and be fully involved with BRICS in order to develop the African economy.

The author’s argument extends to ways in which corruption can be addressed, there must be a way to address corruption as for smooth running of different states. Reports have found that with the right infrastructure, enabling policy amongst others Africa can become a world leader in a number of businesses,⁴² and this will add to economic development.

The state of affairs (economic situation) is in general used as an excuse for African countries’ failure to meaningfully enforce socio-economic rights.⁴³ The flip side of the coin bears much truth: lack of economic development stifles the enhancement of the progressive realisation of socio-economic rights.⁴⁴

This paper further covers the fundamental questions which many individuals ask, which includes the former Chief Justice of South Africa Mogoeng Mogoeng, ‘why continents like Africa are in a deplorable and stubborn state of abject poverty’.⁴⁵ Arieff asks a similar question, namely that, how can it be that countries without resources like those that Africa has are more economically developed than Africa?⁴⁶

³⁸Bah EM, Moyo JM, Verdier-Chouchane A, et al 'Assessing Africa’s competitiveness: Opportunities and challenges to transforming Africa’s economies' in The Africa Competitiveness Report 2015 (2015) 3.

³⁹Falk, R. (1979) 'Responding to Severe Violations', in Dominguez JI et al. (eds.) *Enhancing Global Human Rights* page 225. New York: McGraw-Hill Book Co.

⁴⁰Strydom, H. (2016) ‘International law making as an attribute of state sovereignty’ in Strydom H (ed) *International Law* 3 ed page 68. Oxford University Press 68.

⁴¹El-Obaid EA and Appiagyei-Atua K ‘Human Rights in Africa – A New Perspective on Linking the Past to the Present’ (1995) 41 *McGill Law Journal* 852.

⁴²United Nations Conference on Trade and Development (UNCTAD), *Economic Development in Africa Report 2018: Migration for Structural Transformation* (2018) 151.

⁴³Agbakwa (2002) at 186.

⁴⁴Agbakwa (2002) at 186.

⁴⁵Former Chief Justice Mogoeng Mogoeng (2018).

⁴⁶Arieff (2015).

Trade and Economic Development under AfCFTA and BRICS

It against the background of economic development that it is submitted that Africa's share in global trade has not changed. The paper makes the point that intra-African trade is a key factor towards economic development and that can be complimented by the BRICS. One of the factors that can augment the economic development or for Africa to develop economically, intra-African trade is needed, that is, improve the average intra-African exports and imports.⁴⁷

Further, it is submitted that the colonisers exploited Africa, and that Africa is responsible for economic development in Europe and the colonies of European settlement in North America and Australasia, the economic development of the colonisers were at the expense of African economy.⁴⁸

Moreover, it has been alluded that trade is accepted as an essential tool for growth and the overall economic well-being of a nation.⁴⁹ In addition, some empirical studies show how increase in trade had resulted into faster economic growth and development.⁵⁰ It is submitted that Africa has to work on a trade agreement that will focus on Africa-intra trade as a link between the volume of trade and the ease of flow of goods and service across international boundaries.⁵¹ It is unfortunate that the overall Africa's share of the global trade has not changed over the years, also the export diversification has not changed.⁵²

It is observed that the challenge that Africa face amongst others is the poor infrastructure, and it is for this reason that it is argued that the said intra-African trade agreement must facilitate for African countries assisting each other, not just a mere trade agreement that does not take into account the challenges of Africa. It was submitted that the poor overall trade performance in Africa has resulted in part due to the fact that in many countries in Africa, the trade-enabling infrastructures to compete on the international markets are lacking.⁵³

Africa is under a plague caused by weak trade institutions and infrastructure⁵⁴ and a scarcity of trade facilitation instruments.⁵⁵ While on that, it must be noted that Africa imports numerous agricultural products which are also produced on the African continent.⁵⁶ It is without a doubt that intra-African trade can yield good results for Africa and sectors that have the most potential to promote this are manufacturing, agriculture, tourism, and transport sectors.⁵⁷

These sectors can indeed improve Africa's economic prospects. Africa is agriculture resources-rich, has a land mass of about 30 million square kilometers,

⁴⁷United Nations Conference on Trade and Development (UNCTAD) (2019) at 20.

⁴⁸Austin (2010).

⁴⁹Jita & Mousum (2012) at 48.

⁵⁰Singh (2010) at 1519.

⁵¹International Monetary Fund (IMF) (2001).

⁵²United Nations Conference on Trade and Development (UNCTAD) (2015) at 23.

⁵³Limão & Tovar (2011) at 186.

⁵⁴Department for International Development (DFID) Annual Report and Accounts (2011) at 33.

⁵⁵Brenton, Dihel, Gillson & Hoppe (2011).

⁵⁶Viljoen.

⁵⁷International Monetary Fund (IMF) Tackling Challenges Together, IMF 2015 Annual Report (2015) 90.

has the second largest continent.⁵⁸ About 874 million hectares, which is more than 85 per cent of sub-Saharan Africa surface area, is fertile and suitable for crop farming.⁵⁹

In addition, other sectors can improve Africa economic development, such as the energy sector. A sufficient power infrastructure is very important towards economic growth. This is because sustainable economic development requires access to modern, reliable and efficient energy services.⁶⁰ Unfortunately in Africa this sector is plagued with insufficient capacity, low access, poor reliability and high costs.⁶¹

This actually raises questions as to Africa's ability to meet its energy demands because even though the continent has a vast and diverse reserve of energy resources, the challenge is that these energy resources largely remain unexploited.⁶²

This paper highlights make a case for African states to unite and work towards intra-African trade under the AfCFTA and work with BRICS as the current trade facilitation agreements are inadequate and do not address the challenges of Africa. This is evident as there is no increase in African countries' share of the global market. Thus, the research argues for a need to focus on intra-African trade and the establishment of the African Continental Free Trade, is a step in the right direction.

The argument made in this paper is that intra-African trade will boost economic development, and, in that regard, the African countries will be able to enforce socio-economic rights. It has been demonstrated that intra-African trade as facilitated by the AfCFTA will yield good results in terms of trade which on the other hand would lead to economic development in Africa.⁶³ This will also be complimented by BRICS.

The creation of BRICS common currency is generating increasing interest as it will redefine global financial balances as for decades, the US dollar has dominated as the primary reserve currency, which gives the United States of America considerable economic and geopolitical power.⁶⁴ The 2024 BRICS submit intensified discussions on establishing an alternative named "Unit", designed to facilitate exchanges within the bloc and it is part of a broader strategy aimed at reducing dependence on the dollar.⁶⁵

Conclusion and Recommendation

This paper investigated possible contribution by BRICS to the AfCFTA towards economic development and consequently the enforcement of socio-economic rights in Africa. Further, the paper has shown that it is possible for Africa to have a strong economy, but it must seize all available opportunity that will lead to that strong economy. It has been shown that the number of African countries which are currently member of BRICS increased to three and includes South Africa, Egypt and Ethiopia. It has been submitted that this is a gain for Africa. With the AfCFTA being hope for

⁵⁸World Atlas (2018).

⁵⁹FAO (2002).

⁶⁰Castellano A, Kendall A, Nikomarov M, et al. (2015).

⁶¹Blimpo MP & Cosgrove-Davies M (2019) at 71.

⁶²Taliois C, Shivakumar A, Ramos E, et al. (2016) at 51.

⁶³The AfCFTA website.

⁶⁴Cointrubune (2025).

⁶⁵Cointrubune (2025).

economic boost in Africa, it is anticipated that BRICS will as well add to economic development in Africa.

Further, it was argued in this paper that economic development in Africa is an urgent matter that needs urgent attention, and all the available opportunities must be seized, and BRICS is one of those opportunities. It was argued that the economic development will consequently lead to the enforcement of socio-economic rights. The poverty rates statistics were examined, and they were found shocking, it has been reported that most poverty is concentrated in the Sub-Saharan Africa region, poverty at one of the sub-regions of Africa is above 50%. This author argued additionally that in order for Africa to address its challenges, particularly, the economic development challenges, African leaders must work together towards achieving common goal, which is economic development. Also, Africa must deepen relations, particularly with those states that share similar challenges with Africa, BRICS nations in particular.

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