

The Full Enforcement of Socio-economic Rights in Africa: A Dream or a Reality?

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The adoption of the African Charter on Human and Peoples' Rights (African Charter) on 27 June 1981 in Nairobi, Kenya was recorded as historic step towards the protection of human rights in Africa. However, to date, Africans' socio-economic rights are not fully or at all enforced. The author argues that Africa must take a new approach, a strategic one towards economic development in Africa and consequently the enforcement of socio-economic rights. He submits that several strategic approaches, such as development of new laws on the natural resources, producing quality products and services, image related strategies which involve great marketing of Africa, its products, and services. The author is of opinion that there is a link between economic development and the enforcement of socio-economic rights. It is further argued that intra-African trade will enhance sustainable development and economic growth and it is important. It is submitted that African countries must focus more on intra-African trade, which will accelerate sustainable economic development and consequently the enforcement of socio-economic rights, which will in turn reduce poverty and better the lives of millions of Africans who are in dire need of socio-economic rights to be enforced due to the living conditions they are in.

Keywords: Africa; socio-economic rights; natural resources, strategic economic development.

Introduction

The adoption of the African Charter on Human and Peoples' Rights (hereinafter referred to as the African Charter) on 27 June 1981 in Nairobi, Kenya, was recorded as historic step towards the protection of human rights in Africa. However, to date, Africans' socio-economic rights are not fully or at all enforced.

Dr. Kwame Nkrumah in his 1963 speech in Addis Ababa, Ethiopia, 'We must unite now or perish' passionately and hopefully said, '[Africa] must unite now or perish' he continued to state that '[b]ut just as we understood that the shaping of our national destinies required of each of us [...] so we must recognise that our economic independence resides in our African union [...] The unity of our continent [...] economic development of Africa will come only within the political kingdom, not the other way round.'¹

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¹Nkrumah (1963).

He further said '*[t]he resources are there. It is for us to marshal them in the active service of our people [...] [o]ur continent certainly exceeds all the others in potential hydro-electric power, which some experts assess as 42% of the world's total'. What need is there for us to remain hewers of wood and drawers of water for the industrialised areas of the world? It is said, of course, that we have no capital, no industrial skill, no communications, and no internal markets, and that we cannot even agree among ourselves how best to utilise our resources for our own social needs [...]*'.²

It has been many years since Africa became independent, however, Africa is still struggling economically. This poor economic situation is affecting many Africans, since their socio-economic rights cannot be enforced due to (as some states put it) lack of 'resources'. The lack of resources argument is actually puzzling as Africa has substantial resources that can lead to socio-economic rights of every African being enforced.

As suggested by the title of this paper, this paper investigated strategic 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 as long as it takes strategic approach towards economic development, such economic development will consequently lead to enforcement of socio-economic rights.

Strategic Approach to Economic Development

A lot has been said about economic development in Africa,³ however, this paper is on the strategic economic development, which will consequently lead to the enforcement of socio-economic rights. The strategies argued in this research are good quality products/service and world class marketing for African products/services. Stating differently, the strategies put forward are Africa producing good quality products/services, great marketing of such products/services. Also, capturing of its natural and other resources towards economic development and redirecting of wealth of natural and other resources to its rightful owner, Africa.

As a result of no clear quality products/services, number of people prefer buying products/services of other countries outside of Africa, if Africa can have good quality products/services and market these, such people can buy local products/services and would eventually change their mentality about African products/services. Consequently, even the people outside of Africa will support the African products/services. This cannot happen overnight and obviously the African Union (hereinafter referred to as the AU) and/or individual states cannot impose laws to force people to buy local brands, but the quality and marketing will progressively change the mindset of people against the 'low-quality'/'bad-quality' African products/services, as perceived by many.

²Nkurmah (1963).

³Mashego (2020).

The other facet of the strategies brought forward is the harnessing of Africa's natural resources and enacting laws that would lead to Africa's minerals being processed in Africa and the manufacturing of the end products being done in Africa. It is hopeful to see that there is a development on this strategy.⁴

In the words of Ralph Waldo Emerson, 'if a man can write a better book, preach a better sermon or make a better mouse trap than his neighbours, though he builds his house in the woods, the world will make a beaten path to his door.'⁵ Les Brown, a motivational speaker goes on to say 'if you know marketing people will sleep outside your door, looking for a telephone they never touched or seen'.⁶ This can indeed apply to Africa, good quality and good marketing can eventually lead to African products/services doing well.

It is the argument of this paper that Africa have a potential, this can be demonstrated with many African products/services, for instance Mxit, a chat app which 'fell victim to the rise of intense competition from international offerings such as WhatsApp and Facebook.'⁷ Mxit had around 7.4 million monthly users, not only in South Africa (where it was created) but internationally, such as in Malaysia, India, Indonesia, the UK, the US, Nigeria, Brazil, France, Germany, Italy and Portugal.⁸ There was a big potential in this app and at the time of its existence, WhatsApp (most popular currently) was not even popular,⁹ it is the researcher's argument that the failure of this app was as a result of lack of innovation and less or poor marketing of the app.

It is a known fact that many African countries are doing badly economically,¹⁰ and they use that as an excuse for not enforcing socio-economic rights.¹¹ The research concede that indeed poor economic development leads to failure to enforce socio-economic rights, and that this is a major problem for Africa.

It has been demonstrated that intra-African trade as facilitated by the African Continental Free Trade Area (hereinafter referred to as the AfCFTA) will yield good results in terms of trade which on the other hand would lead to economic development in Africa.¹² It is the argument of this paper that the intra-African trade will not yield substantial results as anticipated if there is no treaty (leading to also national policies) with the objectives of enhancing the African products/services to being of great quality, i.e. good quality products/services. Borders can be opened but if African products/services are of less quality they will not be preferred by the consumers in other African countries.

⁴News24 (2023).

⁵Quote Investigator (2015).

⁶Brown.

⁷Business Tech (2016).

⁸News24 (2020).

⁹News24 (2020).

¹⁰Arieff (2015).

¹¹Agbakwa (2002) at 186.

¹²The AfCFTA website.

Economic Development and Socio-Economic Rights: The Link

The African Union is made up of all African countries and consists of 55 Member States, which represent all the countries on the African continent. In Africa, both civil and political rights and socio-economic rights are protected, in addition to that, group rights are as well protected, all these rights can be found in the African Charter.¹³ The 'minimalist' approach which is all about considering the young states from number of obligations has led to the African Charter covering only limited number of socio-economic rights,¹⁴ however, many important rights are covered in the African Charter.

For as much as the African Charter explicitly only covers limited number of rights, it should be brought to light that other rights, in particular socio-economic rights are covered implicitly.¹⁵ It has been submitted that the vagueness of the African Charter is to allow those who apply the law and the interpreters some sort of flexibility.¹⁶ Also, it must be borne in mind that 'promote and protect human and peoples' rights and freedoms',¹⁷ being the objectives of the African Charter must be realised. Sadly however, despite the African Charter strongly protecting socio-economic rights, realisation of these rights is poor.¹⁸

The African Charter, in its preamble states that:

'[E]njoyment of rights and freedoms also implies the performance of duties on the part of everyone [...] it is henceforth essential to pay a particular attention to the right to development and that civil and political rights cannot be dissociated from economic, social and cultural rights in their conception as well as universality and that the satisfaction of economic, social and cultural rights is a guarantee for the enjoyment of civil and political rights'.¹⁹

In terms of the protection of socio-economic rights, constitutions of the African countries' reveal three broad constitutional models,²⁰ which are the direct constitutional protection model, the second model does not include the protection of socio-economic rights in a bill of rights, and third and last the hybrid model, whereby some socio-economic rights are recognised in the bill of rights, while others are under directive principles of state policy. One of arguments laid down by Viljoen is that Africa is a rich continent, his reference to this was in terms of natural resources and he indicated that Africa is capable of enforcing socio-economic rights.²¹

¹³Chirwa & Chenwi (2016a) at 6.

¹⁴Rapporteur's Report on the Draft African Charter on Human and Peoples' Rights, OAU Doc CAB/LEG/67/Draft Raot.Rpt.(II) Rev.4, para 13.

¹⁵Ssenyonjo (2016) at 94.

¹⁶Rapporteur's Report on the Draft African Charter on Human and Peoples' Rights, OAU Doc CAB/LEG/67/Draft Raot.Rpt.(II) Rev.4, para 13.

¹⁷African Charter on Human and Peoples' Rights Preamble.

¹⁸Ssenyonjo (2016) at 92.

¹⁹African Charter on Human and Peoples' Rights Preamble.

²⁰Chirwa & Chenwi (2016a) at 8.

²¹Viljoen (2012) at 544.

It is argued that there is a link between economic development and the enforcement of socio-economic rights. It is further argued that intra-African trade will enhance sustainable development and economic growth and it is important. It is submitted that African countries must focus more on intra-African trade, which will accelerate sustainable economic development and consequently the enforcement of socio-economic rights, which will in turn reduce poverty and better the lives of millions of Africans who are in dire need of socio-economic rights to be enforced due to the living conditions they are in.

Central to the argument of this paper, Ewing stated that the British officials who coined the phrase ‘Made in Germany’ intended it as an insult to Germany, since Germany was at a time known for low quality. Ewing further states that in 1887 while alarmed by an influx of low-priced German products, the British government ruled that goods imported from Germany must have ‘Made in Germany’ label.²² However, many years later, the label ‘Made in Germany’ is known for good quality.²³ Africa can learn from Germany.

During the briefing by A GIZ-AU the paper presented a case on the labour market effect of the AfCFTA. The paper submits that the AfCFTA will have the potential to significantly impact the livelihoods of African people by increasing inter-African trade and consequential employment opportunities in the integrated African labour market.²⁴ This submission unfortunately only emphasised on the one side analysis of labour market. Mbah *et al.* on the importance of economic development submit that economic development is the most powerful instrument for reducing poverty and improving the quality of life, particularly in developing countries, such as Africa.²⁵

Signe and Johnson submit that the key advantage of manufacturing is that it absorbs large number of workers and places them into productive and decent paying jobs. They further submit that throughout history, countries such as the United States, United Kingdom, France, Japan, and Germany were transformed into some of the world’s wealthiest countries by manufacturing. Further they looked into the most recently transformation, which is China, a new age of industrialisation has helped elevate China into one of the world’s fastest growing economies at the moment. Concluding on the above, they submit that the above are examples of how industrialisation can generate rapid structural change, drive development, and alleviate poverty and unemployment.²⁶ This supplement the argument of this paper that one of the strategic economic development be ceasing or reduction of export of raw minerals to countries out of Africa.

Further, Signe and Johnson put it forward that the limited industrial development in Africa represents a missed opportunity for economic transformation and quality employment generation that reduce poverty.²⁷ They also submit that recently leaders all over Africa are realising that manufacturing is a major factor in

²²Ewing (2014).

²³Ewing (2014) at 159.

²⁴Lungu (2019) at 1-3.

²⁵Mbah & Ojo (2018) at 22.

²⁶Signe & Johnson (2018).

²⁷Signe & Johnson (2018).

helping Africa achieve their goals of successfully reaching the next stage of economic development.²⁸ There are lot of favourable factors in terms of economic development for Africa, for instance, the availability of low-cost labour and a plenty of natural resources and raw materials,²⁹ this simply means that Africa has a potential to develop economically, what is lacking is the strategic way towards that economic development.

Sun argues that Africa is ‘the world’s next great manufacturing center’.³⁰ Focusing attention at the macroeconomic terms, a strong manufacturing sector is argued to improve a country’s external account balance, this is done by decreasing imports and diversifying exports, this thereby increase resilience to external shocks as compared to reliance on primary commodities.³¹ Mbah *et al* submit that they rebuke the delayed state of economic growth and development in Africa looking at the immense natural resources the continent is having.³² This inability of Africa to accelerate economic development using its wealth of natural resources have led to scholars identifying this dilemma as the ‘resource curse’.³³ Panford submits that the dismal failure and strategies of economic development by African leaders have engendered numerous write-ups, study, and disquisition.³⁴

Sender and Cramer argue that Africa will need to allocate resources so as to ensure a dramatic increase in the growth rate of their export earnings.³⁵ They further argue that raising agricultural productivity acts as a foundation for broader sustained economic development and should therefore be a priority for Africa’s policy makers. Also, they argue that higher productivity in the output of food crops bought and consumed by African wage workers is a key part of a non-inflationary strategy to sustain profitability, investment, and growth.³⁶

On the other facet of this research is socio-economic rights, Shehu argues that socio-economic rights have short history in Africa as initially the focus was on civil and political rights, the so-called first-generation rights, reason behind this being because enforcement of socio-economic rights depends on the state of the economy, and the effective and efficient of management of the economic resources.³⁷

Economic Development and Socio-Economic Rights: Strategic Approach

It is submitted that one cannot speak of the problems of Africa, especially economic challenges and divorce that from colonialism which affected Africa

²⁸Signe & Johnson (2018).

²⁹Signe & Johnson (2018) at 7.

³⁰Sun (2017).

³¹Hauge (2016).

³²Mbah & Ojo (2018) at 22.

³³Venables (2016) at 161.

³⁴Panford (2017).

³⁵Cramer, Sender & Oqubay (2020) at 111. .

³⁶Cramer, Sender & Oqubay (2020) at 11.

³⁷Shehu (2013).

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.³⁸ As a result of this colonisers became rich due to the resources of Africa and Africa remaining poor.³⁹ It cannot be argued otherwise that Africa is rich in terms of resources,⁴⁰ however, poverty in Africa affect close to 50 percent of the population of Africans.⁴¹ It is submitted that the economic development of the colonisers were at the expense of African economy.⁴²

It is argued that Africa must take a new approach, a strategic approach towards economic development in Africa and consequently the enforcement of socio-economic rights. The AfCFTA agreement is one of the approaches that Africa must pay a lot of attention on as it has a potential. Other trade agreements never really assisted Africa. Further it is submitted that several strategic approaches as they appeared above must be taken in account towards Africa's economic liberation., such are the development of new laws on the natural resources, producing quality products and services, image related strategies which involve great marketing of Africa, its products, and services.

Socio-economic rights are to be recognised, must be seen to be relevant and are acknowledged 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,⁴³ 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 effects close to 50 percent of the African population.⁴⁴

The argument made in this research is that, Africa must take a stand that will lead to strategic approach to economic development. Such stance must address commitment from Africa countries to establish 'Made in Africa' products/ services, also immense support to businesses, entrepreneurs and innovators, producers and so on producing Made in Africa products/services. For the socio-economic rights to be enforced fully, Africa must develop economically and for Africa to develop, require regional laws⁴⁵ of trade must be enacted that are feasible to Africa.

The said strategic economic development stance must foster lot of productions in Africa, for instance car production. It has been reported that the other top products imported by Africa are motor cars for persons (worth 17 billion USD).⁴⁶ The said treaty must cover all spheres of production such as the medical side, for instance Africa cannot produce its own vaccine and rely on other countries to supply it with vaccine, this simply show that something is not right.

³⁸Chirwa & Chenwi (2016a) at 4.

³⁹Chirwa & Chenwi (2016a) at 4.

⁴⁰Viljoen (2012) at 544.

⁴¹United Nations Development Programme (UNDP), MDG Report 2015: Assessing Progress in African towards the Millennium Development Goals (2015) xiii.

⁴²Austin (2010).

⁴³Viljoen (2012) at 544.

⁴⁴United Nations Development Programme (UNDP), MDG Report 2015: Assessing Progress in African towards the Millennium Development Goals (2015) xiii.

⁴⁵Strydom (2016).

⁴⁶Africon Bridging Potentials (2019).

Such stance must focus on 'Made in Africa' products/services but not only that but also immense support to businesses, entrepreneurs and innovators, producers and so on. The said stance must not exclude great marketing of 'Made in Africa' products/services. It is argued that failure for Africa to produce lead not only to lot of monies leaving Africa due to lot of importing but also poor economic development of Africa.

Intra-African Trade

It is argued that intra-African trade is a need to elevate the challenges of African people, particularly in terms of the enforcement of socio-economic rights. Majority of African countries have and are members of the World Trade Organization (hereinafter referred to as WTO) but African challenges remains. Viljoen argues that equality in trade is undermined by Western hypocrisy, exemplified by advocacy for trade liberalisation in some sectors (in which Western countries are net exporters) and the opposition to free trade in others (in which developing economies stood a chance of competing with local products).⁴⁷

The AU emphasised that 'any failure to incorporate Africa's needs, interests and concerns within the outcome of the Doha Round will not only undermine Africa's already limited trade opportunities, but also erode the autonomy and ability to pursue trade policies that would serve key developmental objectives such as employment, industrialization, food security, rural development and sustained economic growth in Africa'.⁴⁸ The special and differential treatment provisions provided by WTO are not enough and have not been helpful to Africa in light of the continent's low participation levels in global trade and the general sentiment that the WTO framework has failed to adequately address the needs of the developing world.⁴⁹ This is why it is extremely important for African countries to focus on intra-Africa trade.

The argument has been made that economic diversification must be a priority for Africa and that global value chains tend to bypass Africa as it mostly exports raw or minimally processed goods.⁵⁰ For socio-economic rights to be enforced, the researcher argues that there must be policies and laws that will accommodate African states. Considering the levels of poverty in Africa, most of Africa's population currently does not enjoy socio-economic rights. Chirwa and Chenwi argue that economic, social and cultural rights are closely related to development and eradication of poverty.⁵¹

The intra-African trade can lead to good results for Africa, manufacturing, agriculture, tourism, and transport sectors have the most potential to promote intra-

⁴⁷Viljoen (2012) at 83.

⁴⁸Decision on WTO Negotiations Doc. EX.CL/283 (IX) Assembly/AU/Dec.119 (VII).

⁴⁹Special and Differential Treatment Provisions in WTO Agreements and Decisions WT/COMTD/W/239 (2018).

⁵⁰United Nations World Economic Situation and Prospects Report (2020) 129.

⁵¹Chirwa & Chenwi (2016b) at 43.

African trade.⁵² Reports have shown that with the right infrastructure, enabling policy, Africa can become a world leader in a number of businesses.⁵³ African economic performance improved with the progressive implementation of measure that promote free trade.⁵⁴

The African Continental Free Trade Area

Trade is an essential tool for growth and the overall economic well-being of a nation.⁵⁵ Some empirical studies shows that an increase in trade result into faster economic growth and development.⁵⁶ Sadly, over the years the overall Africa's share of the global trade has not changed.⁵⁷ The African Continental Free Trade Agreement of 2018 (hereinafter referred to as AfCFTA) must be implemented rigorously.

Due to the economic and trade challenges Africa is facing, regional integration can play an important role.⁵⁸ With the adoption of the Agreement Establishing the AfCFTA in 2018 it is expected that it will promote regional trade, as well as investment integration.⁵⁹ It is anticipated that the AfCFTA will also address issues faced by the African continent, such as the diversification of exports markets.

The AfCFTA must not be confused with the Tripartite Free Trade Area (hereinafter TFTA). The TFTA comprises of three trade blocs, which are COMESA, EAC and SADC and with a total of 26 countries.⁶⁰ On the other hand the AfCFTA is much broader and comprises a total of 54 countries (all African countries have ratified, with the exclusion of Eritrea).⁶¹ The AfCFTA consists of eight trade blocs, which are ECCAS, ECOWAS, EAC, SADC, COMESA, AMU, CEN-SAD and IGAD.⁶²

There is also anticipation that through the AfCFTA, Africa will experience growth and structural transformation and that African countries will benefit from trade expansion following removal of tariff and non-tariff barriers within Africa, and the least developed countries would gain more through expansion of industrial

⁵²International Monetary Fund (IMF) Tackling Challenges Together, IMF 2015 Annual Report (2015) 90.

⁵³United Nations Conference on Trade and Development (UNCTAD), Economic Development In Africa Report 2018: Migration for Structural Transformation (2018) at 151.

⁵⁴Bah, Moyo, Verdier-Chouchane et al (2015) 3.

⁵⁵Jita & Mousum (2012) at 48.

⁵⁶Singh (2010) at 1519.

⁵⁷United Nations Conference on Trade and Development (UNCTAD) Economic Development in Africa Report 2015 Unlocking the potential of Africa's services trade for growth and development (2015) at 23.

⁵⁸Economic Report on Africa 2019 in 13.

⁵⁹United Nations World Economic Situation and Prospects Report (2020) at 129.

⁶⁰Southern African Development Community.

⁶¹Tralac website (2023).

⁶²A Tralac guide 4 (2019)..

exports.⁶³ It is expected that the AfCFTA will promote industrialization and the creation of higher-paying productive jobs, especially in the manufacturing sector.

Amongst others infant industries, foreign direct investment (FDI), innovation, science and technology, and labour markets must be addressed by much broader and more strategic set of policies.⁶⁴ While some may criticise the AfCFTA on the basis that it will reduce tariff revenue, it must be noted that it is expected to stimulate GDP growth by as much as 1–6 per cent, which would increase the broader tax base and boost revenue collection from other sources.⁶⁵

Conclusion and Recommendation

As seen above, it does not make sense for continent full of resources like Africa to have its people suffer the way they are suffering. It is indeed submitted that something must be done. The AfCFTA agreement if coordinated properly will bring positive changed in Africa. The African people must as well be involved in the affairs of Africa, so that when the governments do not do the right thing they can influence the governments to do the right thing. However, in addition to that, this paper argues that a strategic approach must be taken.

This paper submitted several strategic approaches to economic development, such as development of new laws on the natural resources, producing quality products and services, image related strategies which involve great marketing of Africa, its products, and services. Africa has a potential; however, strategies are needed to leave to successful and prosperous Africa.

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⁶³Economic Report on Africa 2019 'Fiscal Policy for Financing Sustainable Development in Africa' at 13.

⁶⁴United Nations World Economic Situation and Prospects Report (2020) at 129.

⁶⁵Economic Report on Africa 2019 at 14.

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