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AFRICAN RENAISSANCE: EFFECTS OF COLONIALISM ON AFRICA'S NATURAL RESOURCES AND THE RIGHT TO DEVELOPMENT

SUMMARY

Colonialism began in Africa in the 14th century, with the primary objective of accumulating wealth at the expense of African peoples. To achieve this purpose, some European nations obliterated African autonomy by creating colonial territories, in order to harness Africa's natural resources without constraint to expand their economic systems. In retrospect, recognising the impact of colonialism, it is unquestionable that, while Africa significantly contributed to the development of the world, its peoples were disproportionately dispossessed of their natural resources and their livelihood endangered. In the face of these historic injustices, as Africa looks to creating her own development, the departure point would be to correct the current inconsistency of being rich in natural resources, yet poor and underdeveloped. The right to self-determination entails for Africans to have control over, and exercise the right to permanent sovereignty over natural resources, with the purpose of achieving continental development. Reflecting on the ethos of African renaissance and pan-Africanism, which are anchored on the need for "collective self-reliance", the African Union adopted Agenda 2063 in 2015 as a continental roadmap to structural transformation, inclusive growth, and sustainable development. This paper argues that to fulfil the aspirations contained in Agenda 2063 requires prioritising the right to permanent sovereignty over natural resources. In this regard, it advances the argument for resource nationalism as a means to achieve the right to development in Africa.

Africa is a paradox which illustrates and highlights neo-colonialism. Her earth is rich, yet the products that come from above and below the soil continue to enrich, not Africans predominantly, but groups and individuals who operate to Africa's impoverishment.¹



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1. INTRODUCTION

African history holds evidence of the origin of humanity,² which, unfortunately, has been marred by a "legacy of

¹ Nkrumah 1965: 1.

² See Meredith 2012.

slavery, colonialism, unfair trade agreements and weak public institutions, fostered by neopatrimonialism”.³ As discussed in this article, the colonisation of Africa was, from the point of view of the European colonists, necessary for a number of reasons, including the quest for natural resources. The European scramble for Africa was motivated by at least two primary reasons, namely cultural domination and exploitation of the natural resources in the colonised territories. While colonialism enriched Europe, it systematically underdeveloped the African continent.

Over half a century since colonialism officially ended through the granting of independence to the colonised territories in Africa, its effects are still visible and continue to undermine efforts intended to bring transformation and sustainable development to the continent and its peoples. As of March 2019, one in every three Africans is reported to be living below the global poverty line.⁴ The worrying concern is that Africa has been the richest region in the world in terms of natural resources, yet the poorest economically. The question that needs to be explored is: how can the abundance of natural resources be harnessed to overcome underdevelopment and thus facilitate the realisation of the 2063 agenda for development for the Continent? The response to this question is contained in the concept of the right to development. The United Nations Declaration on the Right to Development (UNDRD) provides that:

development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized.⁵

In addition to the UNDRD, the preamble to the African Charter on Human and Peoples’ Rights provides that attention must be paid to the right to development. Ratified so far by 53 out of 55 member states as of 2019, the Charter aims to promote human and peoples’ rights and freedoms. Accordingly, state parties are obligated to enforce all the human and peoples’ rights provisions contained therein, including art. 20(2), which provides that “[c]olonized or oppressed peoples shall have the right to free themselves from the bonds of domination by resorting to any means recognized by the international community”. The realisation of this right is supported by the following supplementary guarantees:

- The right to self-determination, which is the right of all people to “freely pursue their economic, social and cultural development.” As such, “[a]ll peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out

3 Gobewole 2018:6.

4 Hamel, Tong & Hofer ‘Poverty in Africa is now falling-but not fast enough’. <https://www.brookings.edu/blog/future-development/2019/03/28/poverty-in-africa-is-now-falling-but-not-fast-enough/> (accessed on 17 October 2019).

5 United Nations, General Assembly, Declaration on the Right to Development. Resolution adopted by the General Assembly, 4 December 1986, A/RES/41/128:art. 1.

of international economic co-operation, based upon the principle of mutual benefit, and international law.”⁶

- The right to permanent sovereignty over natural resources, which provides for the right of peoples and nations to permanent sovereignty over their natural wealth and resources to be exercised in the interest of their national development and their well-being.⁷
- The collective self-reliance strategy, which is a strategy to overcome underdevelopment.⁸

Art.22 of the African Charter, applied in tandem with art. 20(2), provides that

1. All peoples shall have the right to their economic, social and cultural development with due regard to their freedom and identity and in the equal enjoyment of the common heritage of mankind.
2. States shall have the duty, individually or collectively, to ensure the exercise of the right to development.

To realise the right to development necessitates integrating the above provisions into the legislative framework of African states to enable them to gain and exercise absolute control over and effectively utilise African wealth and natural resources to improve living standards for all the peoples of Africa.

Another important instrument for the realisation of the right to development in Africa, especially with regard to asserting ownership over the natural resources on the continent, is Agenda 2063 – a comprehensive blueprint that provides seven priority areas or aspirations that are conceived to position Africa as an influential actor at the global level.⁹ The Agenda provides a framework on how post-independence Africa can move forward through asserting the right to self-determination and the right to development.

Acknowledging the significance of Agenda 2063 in addressing the ill effects of colonial policies that continue to haunt the peoples of Africa, the article provides an overview of the challenges in harnessing Africa’s natural resources to be able to fulfil the aspirations contained therein. One of the principal challenges is finding the justification for envisaging the aspirations to be achieved in 50 years. This article argues that the extent of underdevelopment in Africa is a matter of urgency that must be addressed. It is contradictory that Africa is rich in natural resources; yet it remains the poorest of all regions around the world. Natural resources are valuable components for creating development. If Africa is to develop, it necessitates exercising the right to permanent sovereignty over its natural resources, which, if taken seriously, would not necessitate having to wait to achieve development in 50 years.

6 United Nations, International Covenant on Economic, Social and Cultural Rights and International Covenant on Civil and Political Rights:arts. 1 and 2.

7 United Nations, General Assembly, Resolution 1803 (XVII), 14 December 1962, on Permanent Sovereignty over Natural Resources.

8 Lemper 1977:115-120.

9 Addaney 2017:181-199.

Participation is paramount in sustaining natural resources for the realisation of the right to development. In light of this, the article explores the mechanism of pan-Africanism that emphasises political union of all African states. Against this background, the analysis begins with an overview of the effects of colonialism in Africa. It proceeds to investigate the instruments that provide and support the right to development and guarantee the right to permanent sovereignty over natural resources for its realisation. In addition, the article employs the African renaissance and pan-African ethos and its emphasis on collective self-reliance as a strategy for exercising the right to development in light of Agenda 2063.

2. EFFECTS OF COLONIALISM IN AFRICA

The African continent has contributed to the evolution of mankind. One cannot explore the history of humanity without delving into the dawn of time which is traced to Africa. The colonisation of the African continent started in the 14th century. By the end of the 19th century, 90 percent of the continent was colonised by seven European countries: Britain, France, Germany, Belgium, Spain, Portugal, and Italy.¹⁰ Colonialism may be understood as the process of domination by a people over other peoples. This process is underpinned by two fundamental objectives, namely cultural domination and resource exploitation.¹¹

The scramble for Africa resulted in the conquering of the African continent and appropriation of the land of the conquered as a means to expand production in Europe, which, at the time, was experiencing the emergence of its industrial revolution. This increased the demand for raw materials and natural resources to contribute to and invest in the industrial revolution. Bulham asserts that colonialism was economic, political and psychological,¹² occurring for various reasons, among others:

- [t]o fuel the industrial revolution and transform the economy and technology. This led to European powers seeking raw materials to expand on their economies and find the solution to their agriculture problem.
- [i]n order to attain raw materials, colonists had to ensure that Africa would provide a steady supply. To do this, it became imperative to control the African economy and trade administration that existed. The ultimate goal for doing this was to reorganise trade and economy administration to integrate it with the international market.
- [t]o attain control, the barter system of African people had to be disposed of and replaced by a medium of exchange they could control, hence the introduction of a monetary system.
- [f]inally, the exertion of force had to be carried out against African peoples – thus inducing the slave trade.¹³

10 See Gobewole 2018:6.

11 Ocheni & Nwankwo 2012:46.

12 Bulhan 2015:239-256.

13 Ocheni & Nwankwo 2012:48.

One has to question the methods employed by colonists, which resulted in the scramble for Africa and, consequently, made Africans outcasts on their land of birth and deprived them of their heritage that formed part of their cultural identity and beliefs. The conquering of African territories disrupted the peoples' attachment to the land and severed them from their ancestry and their future. The African being, knowledge, existence and identity, as asserted by Lephakga, was and remains deeply rooted in the land.¹⁴ For this reason, to the peoples of Africa, land is considered sacred and forms an integral part of a society, as it belongs both to the unborn, the living and the generations that have passed on.¹⁵

Prior to the scramble for Africa, the communal economy, in most parts of Africa, was based on the barter system. In the interest of assuming control of the African continent and to integrate it into the global economy, the colonialists applied the strategy of monetarising the African economy by imposing their home currencies to be used in the conquered territories. With the introduction of such a medium of exchange that they could control, the colonists then defined the pattern of development and political administration for the colonised African territories. Once the African economy had been monetarised, taxes were imposed. Taxation was alien to the African peoples, as their form of tax was payable in kind using, for example, yams, cocoa-yams, livestock, or palm oil. The colonialists made taxation payable only in the colonial currency, which the African peoples were constrained to earn by working in plantations, mines or industries to be able to comply with the tax rules.¹⁶

The colonisation process involved two levels of conquest. The first form of conquest entailed the capturing of the physical territory, including the political power of the people over the territory, while the second form of conquest was psychological, which involved subjugating the knowledge systems, the minds and the history of the colonised peoples.¹⁷ Lephakga identifies a paradox in the process of conquering, where the conquerors likewise went through a process they established, as explained in the following words:

- 1) Being the superior at the expense of the being of the inferior; 2) being a rational Being who exists for the purpose of being the guardian of the conquered who have assumed the status of being irrational beings; and 3) being a chosen nation and special Beings.¹⁸

One major impact of colonialism in present-day Africa that ought to be recognised is meta-colonialism: a modification of colonialism and the revival of the colonial system of exploitation and oppression. Put simply, meta-colonialism glorifies Western education and knowledge as a means to enlightenment, while disparaging and eroding indigenous education and knowledge. In light of this, Bulhan outlines at least twelve indicators of meta-colonialism in the

14 Lephakga 2015:145-163.

15 Mosoma 1991:26.

16 Ocheni & Nwankwo 2012:50.

17 Lephakga 2015:145-163.

18 Lephakga 2015:145-163 (italics and capitals as they appear in the original).

contemporary world,¹⁹ whereby the peoples of Africa are systematically denied and deprived of their humanity by a persistent dismantling of the African idea of “self”.

Although the effects of colonialism remain engrained in Africa, it does not mean that they cannot be eliminated. Lulat²⁰ provides a brief overview of colonised territories in Africa and points out how, after gaining independence, various African countries changed their colonial names, replaced colonial flags and adopted new national anthems, among other fundamental changes. This implies that socio-economic and cultural self-determination, which was withheld by the colonialists during the process of decolonisation, could still be achieved. This can be articulated by asserting the right to development, as explained in the next section.

3. RIGHT TO DEVELOPMENT IN POST-INDEPENDENCE AFRICA

Development is necessary, as it is a process of improvement and change, required for better living and existence. According to Todaro, development is a multidimensional process involving the reorganisation and reorientation of the entire economic and social systems.²¹ Accordingly, development cannot rationally be limited only to the idea of economic growth, but, importantly, it should be associated with the social and cultural components and as a means to address the struggles of developing countries.²²

Africa’s enormous contribution to the development of Western economies, principally through the natural resources that were exploited from the continent, suggests that, if development is to be achieved on the continent, it is imperative to note how to harness and make productive use of the reservoir of available natural resources that still abound.

To validate the importance of the development process, the right to development had to be proclaimed. This is a collective right that belongs to groups of peoples. Development was first officially recognised as a collective human right in the African Charter adopted in 1981. As mentioned earlier, the Charter provides that all peoples are entitled “to their economic, social and cultural development with due regard to their freedom and identity and in the enjoyment of the common heritage of mankind”.²³ The proclamation of development by developing countries led to the adoption of the UNDRTD in 1986, which affirms and recognises the right to development as a fundamental human right.²⁴ The UNDRTD defines “development” as

19 Bulhan 2015:239-256.

20 Lulat 2005:535-539.

21 Todaro 1981:56.

22 United Nations, General Assembly, Declaration on the Establishment of the New International Economic Order, Resolution 3201 (S-VI), adopted on 1 May 1974.

23 African Charter:art. 22(1).

24 United Nations, General Assembly, Declaration on the Right to Development, Resolution 41/128, adopted on 4 December 1986.

a comprehensive economic, social, cultural and political process, which aims at the constant improvement of the well-being of the entire population and of all individuals on the basis of their active, free and meaningful participation in development and in the fair distribution of benefits resulting therefrom.²⁵

The UNDRTD further states that the right to development is “an alienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized”.²⁶ Moreover, it qualifies human beings as “the main participants and beneficiaries of development” and as the “active participant[s] and beneficiar[i]es of the right to development”.²⁷

The right to development is a third-generation right. Accordingly, the duty bearers with the obligation to ensure the realisation of this right include the state, peoples, individuals, public and private firms as well as the international community.²⁸ States are considered the primary duty bearers to ensure the implementation of the UNDRTD. As duty bearers, they have a duty to

- formulate appropriate national development policies;²⁹
- co-operate with each other in ensuring development and eliminating obstacles to development;³⁰
- take steps, individually and collectively, to formulate international development policies with a view to facilitating the full realization of the right to development;³¹
- take resolute steps to eliminate the massive and flagrant violations of the human rights of peoples and human beings affected by situations;³²
- take steps to eliminate obstacles to development resulting from failure to observe civil and political rights, as well as economic, social and cultural rights;³³
- undertake, at the national level, all necessary measures for the realization of the right to development;³⁴
- encourage popular participation in all spheres as an important factor in development and in the full realization of all human rights.³⁵

For the right to development to be realised, both duty bearers and holders of the right (the peoples) must be aware of their responsibilities. In other

25 United Nations, General Assembly, Declaration on the Right to Development:Preamble.

26 United Nations, General Assembly, Declaration on the Right to Development:art. 1.

27 United Nations, General Assembly, Declaration on the Right to Development:Preamble:par. 2.

28 Tadeq 2010:325-344.

29 United Nations, General Assembly, Declaration on the Right to Development:art. 2(3).

30 United Nations, General Assembly, Declaration on the Right to Development:art. 3(3).

31 United Nations, General Assembly, Declaration on the Right to Development:art. 4(1).

32 United Nations, General Assembly, Declaration on the Right to Development:art. 5.

33 United Nations, General Assembly, Declaration on the Right to Development:art. 6(3).

34 United Nations, General Assembly, Declaration on the Right to Development:art. 8(1).

35 United Nations, General Assembly, Declaration on the Right to Development:art. 8(3).

words, the state and the populace must be conscious of what is expected of them. Another important component in the implementation of the UNDRTD is state cooperation. African states could do so by mutually monitoring their development initiatives, in order to determine the extent of success or failure in the implementation of the UNDRTD. The essence of this would be to establish a platform where African states could learn from each other.

A key component in the realisation of the right to development on the African continent is the exercise of the right to self-determination to enable the African peoples to determine their own form of economic, cultural and social development. Self-determination is a collective human right supported by various international instruments, including the United Nations Charter,³⁶ the International Covenant on Civil and Political Rights,³⁷ the International Covenant on Economic, Social and Cultural Rights,³⁸ the *Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States*,³⁹ and the Declaration on the Granting of Independence to Colonial Countries and Peoples.⁴⁰ The conventional perception of this right is that it was intended for colonised territories to gain or achieve independence from their colonial rulers and to democratise government.⁴¹

The right to self-determination extends to economic, social and cultural matters.⁴² With regard to exercising the right to self-determination, Africa's full liberation from colonial exploitation and recovery from European oppression entails repossession of expropriated wealth, by asserting the right to permanent sovereignty over natural resources with the purpose of achieving continental development. The right to permanent sovereignty over natural resources includes the right of both states and peoples to freely dispose of their natural resources. The rights to self-determination and permanent sovereignty over their natural resources are important dimensions of the decolonisation process and thus crucial for development.⁴³ Because the conquering of Africa resulted in colonial powers exploiting the continent to enrich their economies and, by so doing, sowing seeds of inequality and underdevelopment, the right to self-determination, in conjunction with the right to permanent sovereignty over natural resources, provide the opportunity for Africa to unburden herself from poverty, underdevelopment and dependence as a means to achieve sustainable political, economic and social development.

Given that the African continent is rich in raw materials, the nationalisation of industries and expropriation of properties, done through enacted legislation,

36 United Nations, Charter of the United Nations, 24 October 1945, 1 UNTS XVI.

37 United Nations, International Covenant on Civil and Political Rights, 19 December 1966, 999 U.N.T.S 171.

38 United Nations, International Covenant on Economic, Social and Cultural Rights, 16 December 1966, 993 U.N.T.S. 3.

39 United Nations, *Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States*, 24 October 1970, A/RES/2625 (XXV).

40 United Nations, Declaration on the Granting of Independence to Colonial Countries and Peoples, 14 December 1960, A/RES/1514(XV).

41 Sunday *et al* 2015:127-158.

42 Sunday *et al* 2015:127-158.

43 Schrijver 2013:95-102.

must be thoroughly explored. For example, in Nigeria, petroleum makes up at least 70 percent of the nation's gross domestic product.⁴⁴ Prior to Nigeria attaining independence, the country and its natural resources were the perceived property of Great Britain. Accordingly, the British "colonial administration enacted oil and mining regulations which vested mineral rights in Nigeria on the British government".⁴⁵ In post-independence Nigeria, sec. 1 of the *Petroleum Act* of 1969 provides that "the entire ownership and control of all petroleum in, under or upon any lands to which this section applies shall be vested in the State".

[N]otwithstanding the foregoing provisions of this section, the entire property in and control of all minerals, mineral oils and natural gas in, under or upon any land in Nigeria or in, under or upon the territorial waters and the Exclusive Economic Zone of Nigeria shall vest in the Government of the Federation and shall be managed in such manner as may be prescribed by the National Assembly.⁴⁶

In essence, the *Constitution* provides that mines and minerals, including oil fields, oil mining, geological surveys and natural gas are the exclusive preserve of the Federal Government of Nigeria. It is unreasonable that the state owns and controls all of the natural wealth and resources in the country; yet the country has one of the highest poverty rates on the continent. This provides the basis for arguing that the provisions of the Nigerian *Constitution* regarding ownership and control of natural resources is a reflection of British colonial statutes that "vested ownership and control of natural resources on the Crown, while granting oil exploration and mining rights and prospecting licences to corporate entities".⁴⁷ The state's ownership and control of natural resources (petroleum in the Nigerian context) is normally supposed to translate into extensive benefits to the entire nation, especially when efficiently and effectively managed in such a manner as to eliminate corruption and unnecessary losses.

The following illustrates the importance and benefits of nationalisation of natural resources. In 1972, Norway nationalised the country's natural oil wealth, following the abusive exploitation by foreign companies. Statoil was established as Norway's state-owned oil company with a 67 percent stake in the company and 50 percent state participation in each exploration licence issued. The state then proceeded to establish an oil fund, which has been an asset to its economy, owing to the manner in which it is managed, with details of the use of the funds made public for scrutiny by the Norwegians who are the legitimate owners represented by Parliament.⁴⁸

The process of development and the exercise of permanent sovereignty over natural resources are not limited to economic benefits, while infringing on

44 Obaje 2009:1.

45 Okonkwo 2017:162-184.

46 *Constitution of the Federal Republic of Nigeria*:sec. 44(3).

47 Okonkwo 2017:162-184.

48 Mataboge 'Oil together now: Lessons on nationalisation from Norway'. <https://mg.co.za/article/2011-09-08-oil-together-now-nationalisation-lessons-from-norway> (accessed on 26 December 2019).

other rights. Development also entails a social and cultural dimension aimed at enhancing human well-being and standards of living.

In the South African Constitutional Court case, *Maledu and Others v Itereleng Bakgatla Mineral Resources (Pty) Limited and Another*,⁴⁹ the applicants (Lesetlheng village community) were appealing a High Court order to evict them from their farm. In 1919, the ancestors of the applicants had purchased the farm and, at the time, ownership could not be transferred to the purchasers, mainly due to racially discriminatory laws. Moreover, the applicants were not considered an autonomous and separate entity by the then government. As a result, ownership of the farm was transferred to the Minister. The title deed indicated that only members who had contributed to the purchase of the farm could have any legal interest in the farm. The farm was informally subdivided into 13 plots, on which the 13 families erected houses and shacks and conducted crop and stock farming.

In 2004, Itereleng Bakgatla Mineral Resources (Pty) Ltd (IBMR) obtained a prospecting right over the farm from the Department of Mineral Resources. The IBMR was awarded mining rights over the farm and, in 2014, a full-scale mining operation commenced on the farm, causing the applicants (owners) to lose their possession. In 2015, a spoliation order was obtained against the respondents, which resulted in the latter approaching the High Court seeking an eviction order and to restrain the applicant from entering, remaining or conducting any farming operations on the farm. The Court granted the order.⁵⁰

On the issue whether the respondents were under a duty to exhaust the internal process under sec. 54 of the *Mineral and Petroleum Resources Development Act 28 of 2002 (MPRDA)* before approaching the High Court, the Constitutional Court held that sec. 54 must be exhausted to ensure that the purpose of *MPRDA*, which is to balance the rights of mining holders and surface rights holders, is fulfilled.⁵¹ Moreover, the Constitutional Court held that the respondents were supposed to take reasonable steps to exhaust the processes articulated in sec. 54.⁵²

On the issue whether the award of the mining right constituted a deprivation of informal rights to land, the Constitutional Court held that the *MPRDA* grants a “holder of a mining right a limited real right in respect of the mineral or petroleum and the land to which such right relates”.⁵³ Furthermore, it grants the holder a right of access to the land, even against the wishes of the landowner. The holder of the mining right is thus free to enter the land

49 *Maledu and Others v IterelengBakgatla Mineral Resources (Pty) Limited and Another* 2019 2 SA 1 (CC).

50 *Maledu and Others v IterelengBakgatla Mineral Resources (Pty) Limited and Another*:paras. 12-25.

51 *Maledu and Others v IterelengBakgatla Mineral Resources (Pty) Limited and Another*:par. 90.

52 *Maledu and Others v IterelengBakgatla Mineral Resources (Pty) Limited and Another*:par. 91.

53 *Maledu and Others v IterelengBakgatla Mineral Resources (Pty) Limited and Another*:par. 100; see the *Mineral and Petroleum Resources Development Act 28/2002*:sec. 5(1).

and do all that is necessary in the exercise of the right. In view of that and the nature of a mining right, it is undeniable that, in the exercise of one's rights, "the mining right holder would intrude into the rights of the owner of the land to which the mining right relates" (par. 102).⁵⁴

The Constitutional Court also held that an informal land rights holder could, under the *Interim Protection of Informal Land Rights Act* 31 of 1996 (*IPILRA*), consent "to the granting of a mining right, but may still be entitled to occupation, depending on the terms and conditions of their consent." This, according to the Court, is buttressed by the purpose of the *IPILRA*, which is "to provide security of tenure for the historically disadvantaged and vulnerable". It was thus incumbent upon the respondents to comply with the provisions of the *IPILRA* (par. 105).⁵⁵ Upon analysing the arguments of the parties, the Constitutional Court granted leave to appeal and upheld the appeal. The High Court's order was set aside.

In another landmark case, the *Ogiek Community* case⁵⁶ on land, development, resources and indigenous peoples, the African Court on Human and Peoples Rights recognised a Kenyan community as indigenous peoples in Africa and guardians of the local ecosystem. In October 2009, the Republic of Kenya (respondent in the case), through Kenya Forestry Service, issued a notice of eviction to the Ogiek Community of the Mau Forest (an indigenous minority ethnic group in Kenya), requiring them to leave the area within 30 days. In November 2009, the African Commission on Human and Peoples' Rights, on behalf of the Ogiek community, ordered for provisional measures requesting the Kenya Forestry Service to suspend the implementation of the eviction notice. At the African Court, the Commission argued that the basis of the eviction notice by the respondent was on grounds that the forest constitutes a reserved water catchment zone and that it was part of government land under sec. 4 of the *Government Land Act*. The Commission argued that the respondent failed to consider the survival of the Ogiek.

The Court started by determining whether the Ogiek are an indigenous population, to which it found and recognised that they are indeed an indigenous people who form part of the Kenyan population. In addressing the alleged violation of art.14 of the African Charter by the respondent, the Court held that the article "may also apply to groups or communities; in effect, the right can be individual or collective."⁵⁷ The Court further held that the right to property refers to three elements: *usus* (right to use the thing that is the subject of the right); *fructus* (the right to enjoy the fruit thereof), and *abusus* (the right to dispose of the thing, *i.e.* the right to transfer).⁵⁸ The Court held that the respondent could not justify preserving the natural ecosystem of the Mau

54 *Maledu and Others v IterelengBakgatla Mineral Resources (Pty) Limited and Another*:par. 102.

55 *Maledu and Others v Itereleng Bakgatla Mineral Resources (Pty) Limited and Another*:par. 105.

56 *African Commission on Human and Peoples' Rights v Republic of Kenya* ACHPR Application No. 006/2012 (2017).

57 *Ogiek Community* case par. 123.

58 *Ogiek Community* case par. 124.

Forest by evicting the Ogiek community from it and thus ruled that, by evicting the community from their ancestral land against their will, the respondent violated art. 14 of the Charter, read in light of the United Nations Declaration on the Rights of Indigenous Peoples.⁵⁹

On the violation of arts.2 and 8 of the African Charter, the Court held that the respondent failed to recognise the Ogiek's status as a distinct tribe, thus denying them the rights available to other tribes. The Court consequently found the respondent in violation of art.2 of the African Charter.⁶⁰ Upon considering the arguments by the parties in relation to the violation of art.8, the Court held that the respondent violated the art.8 provision in the sense that the eviction of the Ogiek from the Mau Forest rendered it impossible for the community to continue its religious practices, thus constituting an "unjustifiable interference with the freedom of religion of the Ogieks."⁶¹

On the violation of art.21 of the African Charter, the Court held that the respondent violated the aforementioned provision in that it deprived the Ogiek of the right to enjoy and freely dispose of the abundance of food produced by their ancestral land.⁶² With regard to the violation of art.22, the Court also held that the persistent evictions by the respondent without consultations had an adverse impact on the economic, social and cultural development of the Ogiek community, which, the Court observed, were not actively involved in the development and determining of the health, housing, and economic and social programmes affecting them.⁶³

In summary, the right to development is an inalienable human right. In the process of realising this right, it is imperative that the rights of others are not subjected to infringement. Self-determination is an important tool in the realisation of the right to development, in that it guarantees the right to territorial integrity and permanent sovereignty over a country's wealth and natural resources and thus affords to the peoples of Africa the right to freely pursue their own economic, social and cultural development.

4. RIGHT TO PERMANENT SOVEREIGNTY OVER NATURAL RESOURCES

Considering that all of Africa has, to a large extent, only attained political independence, it is imperative for the purpose of transformation and sustainable development on the continent that appropriate measures be taken to ensure the attainment of socio-economic and cultural self-determination. The probability of this occurring rests on African states having control and exercising absolute and permanent sovereignty over their wealth and natural resources. Be that as it may, it is imperative for Africa to own and have control over her own resources. The principle of permanent sovereignty was

59 *Ogiek Community* case par. 131.

60 *Ogiek Community* case par. 146.

61 *Ogiek Community* case paras. 162-169.

62 *Ogiek Community* case par. 201.

63 *Ogiek Community* case par. 210.

conceived within the context of decolonisation to enable the decolonised territories to gain absolute sovereignty, particularly in the making of decisions over their resources, in granting licence for extraction and to regulate the use, conservation and management of the resources. In essence, the principle serves as a means to redress the abusive exploitation of Africa's natural resources under colonial rule.⁶⁴

The 1803 General Assembly Resolution is considered the landmark resolution on permanent sovereignty over natural resources.⁶⁵ It provides for the right to freely dispose of natural resources; the right to explore and exploit natural resources freely; the right to regulate foreign investment relating to the exploitation of natural resources; the right to settle disputes over natural resources on the basis of national law and, most importantly, the right to use natural resources for development.⁶⁶ The Charter on Economic Rights and Duties of States (ERDS Charter) was subsequently adopted by the UN General Assembly in 1974 through Resolution 3281(XXIX). It reaffirms the provisions of Resolution 1803 and provides for the promotion of the establishment of a "new international order, based on equity, sovereign equality, interdependence, common interest and co-operation among all States, irrespective of their economic and social systems". Art.2 of the ERDS Charter provides that "every State has and shall freely exercise full permanent sovereignty, including possession, use and disposal, over all its wealth, natural resources and economic activities".⁶⁷ Art. 2(c) of this Charter further provides that states have the right

to nationalize, expropriate or transfer ownership of foreign property, in which case appropriate compensation should be paid by the State adopting such measures, taking into account its relevant laws and regulations and all circumstances that the State considers pertinent. In any case where the question of compensation gives rise to a controversy, it shall be settled under the domestic law of the nationalizing State and by its tribunals, unless it is freely and mutually agreed by all States concerned that other peaceful means be sought on the basis of the sovereign equality of States and in accordance with the principle of free choice of means.

Other instruments reaffirming the right to permanent sovereignty over natural resources include the twin conventions, namely the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. Common art. 1(2) of these Covenants provides that

[a]ll peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principles of

64 Enyew 2017:222-245.

65 United Nations, General Assembly, Resolution 1803 (XVII).

66 Ng'ambi 2015:153-172.

67 The Charter on Economic Rights and Duties of States (ERDS Charter), General Assembly Resolution 3281 (XXIX), UN Doc. A/RES/29/3281 (12 December 1974):art. 2.

mutual benefits, and international law. In no case may a people be deprived of its own means of subsistence.

In addition to the twin covenants, art. 21(1) of the African Charter provides that “[a]ll peoples shall freely dispose of their wealth and natural resources. This right shall be exercised in the exclusive interest of the people. In no case shall a people be deprived of it”. The simple reason that General Assembly resolutions are not automatically binding should not deter states from domesticating them. The fact that various international instruments reaffirm the right to permanent sovereignty over natural resources is a reflection that rights and duties, in accordance with the right, find general recognition in international law.⁶⁸ That is to say, the right to permanent sovereignty over natural resources is a human right of all peoples.⁶⁹

Other arguments assume that the right to permanent sovereignty over natural resources will result in unilateral retraction of concession agreements that were centred on the extraction of natural resources. This argument is founded on the expression ‘permanent’, which implies that a state will, at any time, rescind existing agreements, regardless of their promise not to do so.⁷⁰ This then becomes an infringement of the general principle of contract law, which parties to a contract ought to perform as per agreement.

From a general perspective, the argument is logical. Perhaps, the general principles of contract law ought not to apply stiffly. Certain exceptions have to be considered. For a start, the conditions under which agreements were entered into during the colonial era cannot simply be ignored. Put differently, the fact that Europeans colonised Africa to pursue their own interests speaks volumes of the colonial conditions at the time. Colonisers were motivated by expansion of their territories and to do that, African peoples and their natural resources were abusively exploited. Moreover, it must be borne in mind that extraction concession agreements awarded vast areas of land to foreign firms in the absence of the host state (the state to which the land originates) having control or benefit over the extraction activities.⁷¹ In consideration of the foregoing, it cannot be ascertained whether that African peoples were adequately compensated for the dispossession of their territories and the natural resources found thereon.

The prevailing context necessitates that all agreements entered into prior to the granting of independence to the colonised territories be re-examined and the revision thereof subject to enabling the state, wherefrom natural resources are extracted, to have full control over the resources. This measure should also be subject to determining whether any such agreements would be beneficial for the development of the peoples within the specific territory. In essence, every African state ought to exercise the “inalienable right to freely dispose of its natural resources in accordance with its national interest, and

68 Ng’ambi 2015:153-172.

69 Enyew 2017:222-245.

70 Ng’ambi 2015:153-172.

71 Enyew 2017:222-245

economic and environmental policies".⁷² If these policies are in existence, they must be implemented in such a manner as to ensure that the peoples of Africa become the primary beneficiaries of the extracted resources. I opine that absolute sovereignty that comes along with asserting permanent ownership over natural resources as a means to achieve the right to development can only be attained through reactivating the pan-African vision of a unified Africa.

5. PAN-AFRICANISM AND AFRICAN RENAISSANCE

Pan-Africanism is a sociocultural ideology that was conceptualised for the "industrial and spiritual emancipation" and promotion of the African peoples and their cultures. It represents the Black experiences, harmonises these experiences into an ideology of unity among Black peoples in an attempt to weaken colonial control(s), and establishes a new era of socio-political and economic independence.⁷³

Some scholars view pan-Africanism as an educational, political and cultural movement for the liberation of African descent, promoting ideas of a united Africa. Malisa and Nhengeze emphasise that, despite the evolution of the philosophy of pan-Africanism, the focus of African unity remains consistent.⁷⁴ Despite the inexistence of a watertight definition of pan-Africanism, Esedebe's explanation of this concept ought to be considered:

[Pan-Africanism is] a political and cultural phenomenon that regards Africa, Africans, and African descendants abroad as a unit. It seeks to regenerate and unify Africa and promote a feeling of oneness among the peoples of the African world. It glorifies the African past and inculcates pride in African values ... it represented a reaction against the oppression of blacks and the racial doctrines that marked the era of abolitionism.⁷⁵

To buttress the importance of this phenomenon, the African Union has provided its own understanding of pan-Africanism:

An ideology and movement that encourages the solidarity of Africans worldwide. It is based on the belief that unity is vital to economic, social and political progress and aims to 'unify and uplift' people of African descent. The ideology asserts that the fates of all African peoples and countries are intertwined. At its core Pan-Africanism is a belief that African peoples, both as the continent and in the Diaspora, share not merely a common history, but a common destiny.⁷⁶

72 Enyew 2017:222-245.

73 Eze 2013:675-686.

74 Malisa & Nhengeze 'Pan-Africanism: A quest for liberation and the pursuit of a united Africa'. https://www.researchgate.net/publication/327098805_Pan-Africanism_A_Quest_for_Liberation_and_the_Pursuit_of_a_United_Africa (accessed on 10 October 2019).

75 See Esedebe 1982: 5.

76 African Union Echo Magazine 2013: 1. <https://www.yumpu.com/en/document/read/20454675/pan-africanism-and-african-renaissance-20th-summit-> (accessed on 14 March 2020)

Pan-Africanism emerged for two main reasons. First, as an uprising from colonial historicity and, secondly, as an idea for African unity, political solidarity and stability. The idea of pan-Africanism aims at creating and harnessing the African identity from the consciousness of the African people.⁷⁷ The pan-African movement enables one to associate Africa with freedom, especially since its primary objective was and remains the liberation and unity of the African peoples against colonial tendencies. It instils hope that Africa will unite. The pan-African movement shapes the understanding of African history and her peoples; it articulates the reality that the African continent was not created by Europeans, and it provides evidence that African kingdoms or empires existed prior to the first European encounters.⁷⁸

With the aim to propagate the idea of unity among Africans, the pan-African Congress presented a platform for discussions in that direction. There are conflicting submissions as to when the first pan-African Congress was held. George Shepperson asserts that the first congress was held in 1900 in London, and organised by Henry Sylvester Williams, a West Indian barrister.⁷⁹ Some scholars recognise the 1919 Congress organised by W.E.B du Bois as the first pan-African Congress held in Paris. Despite the conflicting timelines, the significance or primary objectives of these conferences must be acknowledged. The primary goal of the 1900 Congress was to educate peoples of African descent. The Congress sought to:

- a. Educate our young minds in the prolific possibilities of the race;
- b. Develop our own chroniclers; and
- c. Institute and support our own libraries and organisations, and thus march side by side with our more fortunate Caucasian brother.⁸⁰

In a bid to unite African leaders, the objectives of the 1919 pan-African Congress included:

- To consider the conditions of the Black Race in various parts of the world.
- The Congress laid down principles for the development of the Black Race.
- Demand for political rights for all educated Africans and African descendants and their children.
- Demand for economic development in the colonies in Africa primarily for the benefit of the indigenous Africans.
- Demand for political reforms based on local African traditions with the objects of inauguration gradually an African for the Africans.⁸¹

77 Eze 2013:675-686.

78 Malisa & Nhengeze 'Pan-Africanism: A quest for liberation and the pursuit of a United Africa'. https://www.researchgate.net/publication/327098805_Pan-Africanism_A_Quest_for_Liberation_and_the_Pursuit_of_a_United_Africa (accessed on 10 October 2019).

79 See Okoth 2006:313.

80 'Report of The Pan-African Conference'. <http://credo.library.umass.edu/view/pageturn/mums312-b004-i320/#page/5/mode/1up> (accessed on 2 October 2019).

81 Abegunrin 2016:23 (*sic*).

In 1921, Du Bois organised another pan-African Congress in Paris and Brussels. The primary objectives were centred on addressing issues on segregation, racial problems of Black Americans and South Africa, issues of land, and how people of the African world could cooperate with one another.⁸²

Chaired by Du Bois, the 1923 pan-African Congress was held in London and Lisbon. The delegates' primary objective was to address the following issues, including:

- That Africans should have a voice in their own government—self-determination.
- Africans should have access to the lands and its resources.
- There should be development of Africa for the benefit of Africans, and not merely for the profit of Europeans.
- There must be abolition of the slave trade and the traffic in liquor.⁸³

In 1927, Du Bois organised another Conference in New York. Despite the delegates putting forward the resolutions of the previous Congress, the primary issues for the delegates were centred on Haiti, which was occupied by US troops, calling for their immediate withdrawal; restoring local government; and cessation of economic exploitation of the Haitian people.⁸⁴

In 1945, George Padmore and Kwame Nkrumah organised a Congress in Manchester. The resolutions passed were centred on addressing matters of racial discrimination and forced labour.

Subsequent pan-African Congresses were held in Africa, including the All African Peoples' Congress of 1958. This influenced the creation of the Organisation of African Unity (OAU). The OAU was established on 25 May 1963 in Addis Ababa, Ethiopia. The organisation was mandated, among others, "to coordinate and intensify their cooperation and efforts to achieve a better life for the peoples of Africa".⁸⁵ In 2002, the OAU was succeeded by the African Union (AU).

This narrative on the evolution of pan-Africanism is crucial for the peoples of African descent not to be ignorant or oblivious of the colonial injustices perpetrated against them and, consequently, to enable them to advocate for socio-economic, political and psychological independence and promote the consciousness that Africa is the ancestral home of Black peoples. Sustaining the African consciousness requires a persistent reminder that the partitioning of Africa by the Europeans at the Berlin Conference was solely intended at exploiting the continent, her resources and peoples and not – as purported by the colonisers – to bring civilisation to it. This mischievous practice of colonialism then led to the creation of imaginary borders and the making of pseudo-states administered using European legal systems, which altered African history and identities and caused the extinction of the political, cultural

82 Abegunrin 2016:24.

83 Abegunrin 2016:30 (numbering in original removed).

84 Abegunrin 2016:32.

85 Viljoen & Odinkalu 2006:20.

and economic independence of Africa, and their replacement by European cultures and systems.⁸⁶

If Africa is to overcome the challenges of underdevelopment created by colonialism, it is imperative to maximise its economic potential, particularly through exercising the right of permanent sovereignty over the natural resources that abound on the continent. It requires a rebirth – renaissance – of Africa, which is only possible through the realisation to look beyond the existing colonial borders and limitations established by their European colonisers.

The idea of African Renaissance was conceived and given expression by the former South African President, Thabo Mbeki. This ignited the fading embers of pan-Africanism.⁸⁷ It is crucial to understand that the concept “renaissance” is not limited to economic growth. Okumu explains that “just because South Korea has experienced rapid economic growth in the forty years since the Korean War in 1950 does not mean that it is appropriate to speak of Korean Renaissance”.⁸⁸ Renaissance simply means “to be born again”.⁸⁹ In light of this, together with the above definitions of development and the need to revive the ethos of pan-African antecedents, Malisa and Nhengeze posit that “[t]he African Renaissance movement must consider the development it wants to bring about as a process of social transformation that implies not just quantitative but qualitative change”⁹⁰ in overcoming underdevelopment on the continent.

6. AGENDA 2063 – A MECHANISM FOR OVERCOMING UNDERDEVELOPMENT IN AFRICA

6.1 Collective self-reliance

Pan-Africanism and collective self-reliance are concepts that cannot be isolated from each other. According to Lemper, the term “collective self-reliance” can be traced to the Group of 77, a coalition of developing countries to promote collective economic interests.⁹¹ The Fourth Ministerial Meeting of the Group of 77 at Arusha, Tanzania, reviewed and expanded on the Mexico City programme into what later became the Arusha Programme for Collective Self-Reliance. In the programme, it is stated that collective self-reliance is a strategy that ought to be viewed as an integral part of a global economic system, specifically

86 Malisa & Nhengeze ‘Pan-Africanism: A quest for liberation and the pursuit of a united Africa’. https://www.researchgate.net/publication/327098805_Pan-Africanism_A_Quest_for_Liberation_and_the_Pursuit_of_a_United_Africa (accessed on 10 October 2019).

87 Malisa & Nhengeze ‘Pan-Africanism: A quest for liberation and the pursuit of a united Africa’. https://www.researchgate.net/publication/327098805_Pan-Africanism_A_Quest_for_Liberation_and_the_Pursuit_of_a_United_Africa (accessed on 10 October 2019).

88 Okumu 2002:11.

89 Okumu 2002:13.

90 Okumu 2002:13.

91 Lemper 1977:115-120.

as an essential element of an overall strategy for development, encompassing the restricting of international economic relations and embodying a joint action by developing countries to reinforce trade.⁹²

Collective self-reliance strategy is best understood as an original concept for speeding up development in underdeveloped regions. The strategy is best perceived as a scheme of political and economic concepts and goals aimed at changing the economic power and mutual dependence of subjects (states) at the international economic level. Lemper further explains that the term “collective self-reliance” reflects on the concept of “auto-centric development”.⁹³ For change to occur, it necessitates social structures to unite. Auto-centric development provides that change is accompanied by a broader set of transformations, entailing the development of productive forces in all important spheres and sectors, the growing capacity for independent self-control and autonomous political, social, and cultural development, as well as the broader development of skills and learning capacity.⁹⁴

In celebration of the Golden Jubilee of the OAU/AU, African Heads of State, evoking the uniqueness of the history of Africa, the role and efforts of the founders of the pan-African movement and their commitment, and being appreciative of the relentless efforts of the OAU/AU to decolonise the African continent, developed a continental Agenda 2063 through their signing of the 50th Anniversary Solemn Declaration in Addis Ababa in 2013, which was subsequently adopted in 2015.⁹⁵ The Agenda builds on previous frameworks, including the Lagos Plan of Action, the Abuja Treaty, the New Partnership for Africa’s Development, the Comprehensive Africa Agriculture Development Programme, the Accelerated Industrial Development for Africa, and the Programme for Infrastructure Development in Africa.

Agenda 2063 sets out the path to a prosperous Africa free from poverty, state of underdevelopment and corruption. The resurgence of pan-African antecedents and the future of the African peoples rest on the seven aspirations set out by the AU Heads of State, intended to establish

1. A prosperous Africa based on inclusive growth and sustainable development.
2. An integrated continent politically united and based on the ideals of Pan-Africanism and the vision of Africa’s Renaissance.
3. An Africa of good governance, democracy, respect for human rights, justice and the rule of law.
4. A peaceful and secure Africa.
5. An Africa with a strong cultural identity, common heritage, shared values and ethics.

92 Ahmia 2015:140-141.

93 Lemper 1977:115-120.

94 O’Riain 2004:25.

95 https://au.int/sites/default/files/documents/36205-doc-50th_anniversary_solemn_declaration_en.pdf (accessed on 16 October 2019).

6. An Africa whose development is people-driven, relying on the potential of African people, especially its women and youth, and caring for children.
7. Africa as a strong, united and influential global player and partner.⁹⁶

The collective self-reliance strategy is evident in the Agenda 2063 aspirations outlined above, requiring states' co-operation, collective mutual assistance and joint economic and political decision-making. By doing so, African states would practically be exercising the right to self-determination and be able to provide mutual development assistance in achieving development objectives. It entails the sharing of natural resources, comparing economic trends, and exchanging information on the successes and failures in the implementation of development policies.

The collective self-reliance strategy ought to be propagated as a continental ideology for socio-economic and cultural transformation, necessary for inspiring the peoples of Africa to realise that their political, economic, social and cultural development depends on the utilisation of their natural resources.

Transformation is a process whereby the aspirations outlined in Agenda 2063 are set to be achieved within a 50-year timeframe, which may only materialise subject to the right to permanent sovereignty over natural resources as part of the broad effort to achieve the right to development. The AU acknowledges that the realisation of the 2063 aspirations depends on the commitment of African leaders; the establishment of appropriate institutions, policies, human resources, systems and processes, participation, inclusion and empowerment of citizens and stakeholders, adopting a results-based approach with concrete measurable targets capable of being tracked and monitored, and revitalising strategic planning in ensuring effective interface among national plans and regional initiatives.⁹⁷

The AU has developed a series of five ten-year plans. The First Ten-Year Implementation Plan (FTYIP) (2013-2063) seeks to

- Identify priority areas, set specific targets, define strategies and policy measures required to implement the FTYIP of Agenda 2063.
- Bring to fruition the Fast Track programmes and initiatives outlined in the Malabo Decisions of the African Union (AU) to provide the big push and breakthroughs for Africa's economic and social transformation.
- Provide information to all key stakeholders at the national, regional and continental levels on the expected results/outcomes for the first ten years of the plan and assign responsibilities to all stakeholders in its implementation, monitoring and evaluation.
- Outline the strategies required to ensure [the] availability of resources and capacities together with citizen's engagement in the implementation of the First Ten-Year Plan.⁹⁸

96 See https://au.int/sites/default/files/documents/33126-doc-01_background_note.pdf (accessed on 16 October 2019).

97 https://au.int/sites/default/files/documents/33126-doc-01_background_note.pdf (accessed on 16 October 2019).

98 <https://au.int/en/agenda2063/ftyip> (accessed on 16 October 2019).

Through its flagship projects, the AU has identified initiatives to accelerate the growth of African economies and development. The projects include:

- An integrated high-speed train network to connect all African capitals and commercial centres.
- Establishing an African virtual and E-University to increase access to tertiary education and developing high quality distance and eLearning.
- Formulating a commodities strategy “enabling African countries [to] add value, extract higher rents from their commodities, integrate into the Global Value chains, and promote vertical and horizontal diversification anchored in value addition and local content development”
- Establishing an annual African forum where African political leaders, private sector, academics and civil society can gather and deliberate on developments, constraints and measures to realise Agenda 2063 aspirations and goals.
- Establishing a Continental Free Trade Area in an effort to accelerate growth of intra-Africa trade.
- Transforming African laws that restrict the movement of the African people and enhancing free movement.
- Implementing the Grand Inga Dam Project to generate 43,200 MW of power as a source of energy to ensure that the African people have access to clean and affordable electricity.
- Establishing a Pan-African E-network.
- “Ending all wars, civil conflicts, gender-based violence and violent conflicts, and prevent[ing] genocide[s]” by “silencing the guns by 2020”.
- Strengthening Africa’s use of outer space strategy to boost development.
- Establishing a single African Air Transport Market
- Establishing the African Continental Financial Institutions.⁹⁹

Various mechanisms have been set in motion for the realisation of the aspirations contained in Agenda 2063, among which is the African Continental Free Trade Agreement (AfCFTA). The AfCFTA established the largest free trade area in the world and seeks to enhance trade on the African continent. The path to fulfilling this agreement is contained in the Draft Compiled Annexes on the Establishment of the Continental Free Trade Area,¹⁰⁰ which entered into force in June 2019 as an integral part of the flagship projects of Agenda 2063 and aims to realise the aspiration of “a prosperous Africa based on inclusive growth and sustainable development”.

99 https://au.int/sites/default/files/documents/33126-doc-04_the_key_agenda_2063_flagship.pdf (accessed on 16 October 2019).

100 African Union, 31st Ordinary Session, 1-2 July 2018, Assembly/AU/11/(XXXI).

In light of the Policy and Regulation Initiative for Digital Africa, a meeting was held in September 2019 to discuss information and communication technologies on how to monitor and evaluate progress. The meeting explored, among other things, ways to foster digital transformation in Africa, identifying priority areas for African countries, and the adaptation of a two-year roadmap in an attempt to enhance harmonisation of information and telecommunication policies as well as legislative and regulatory frameworks.¹⁰¹ In addition, the African Continental Qualifications Framework was launched.¹⁰²

In October 2019, the African Champions Initiative presented an investment framework aimed at, among others, fostering “private investment in a number of sectors on the continent by 2030”. With the framework in place, a series of consultations with relevant stakeholders will be conducted in order to “refine and improve the proposed approaches”.¹⁰³ The Public Financial Management Forum 2019 was also held in Addis Ababa to deliberate on “revitalized strategies on cash management, review the status of international Public Sector Accounting (IPSAS) implementation in Africa [...] and set the structures for the establishment of the African Association of Accounting General”. The meeting envisaged enhancing the management of financial resources in Africa through financial governance in the public sector and accountability practices.¹⁰⁴

6.2 Entitlement to self-determination

The contents of Agenda 2063 are paramount in so far as calling for a United States of Africa is concerned. To realise the seven aspirations contained therein entails the mobilisation of extensive resources, requiring African governments to demonstrate the capacity and the political will to assert the right to self-determination to control and utilise the natural resources on the continent to the exclusive interest of the African peoples. It obligates African state governments to initiate consultations and citizens’ participation on issues of land expropriation, adopt appropriate legislative and policy measures to ensure effective protection of the interests of the peoples of Africa, and, where necessary, allocate appropriate compensation to victims of dispossession. These measures will afford African peoples the opportunity to self-determine their economic, social, cultural and political status and, in so doing, facilitate the realisation of the right to development.

101 African Union ‘Policy and Regulation Initiative for Digital Africa (PRIDA)-Continental Meeting on Harmonisation of ICT Policies and Regulations’. <https://au.int/en/pressreleases/20190905/prida-continental-meeting-harmonisation-ict-policies-and-regulations> (accessed on 16 October 2019).

102 The New Partnership for Africa’s Development (NEPAD). [https://www.nepad.org/sites/default/files/event-programme-files/ACQF%20workshop%20programme%20\(002\).pdf](https://www.nepad.org/sites/default/files/event-programme-files/ACQF%20workshop%20programme%20(002).pdf) (accessed on 16 October 2019).

103 African Union ‘An investment framework project of a thousand billion presented at the Boma Afro-Champions’. <https://au.int/en/node/37464> (accessed on 16 October 2019).

104 African Union ‘Reforms in management of financial resources in Africa are inevitable’. <https://au.int/en/pressreleases/20191014/reforms-management-financial-resources-africa-are-inevitable> (accessed on 16 October 2019).

While Agenda 2063 is an admirable essential tool for transformation and sustainable development in Africa, it falls short of providing immediate solutions for the continent by virtue of its dawdling linear model. As stated earlier, the signing of the 50th Anniversary Solemn Declaration in 2013 was in commemoration of the establishment of the OAU/AU and political independence for Africa and rehashing of the ideals of pan-Africanism. It may thus rightly be assumed that the crafting of the agenda was not substantiated by any calculations or probabilities that the aspirations would be achieved in 50 years.

Apart from commemorating the 50th anniversary, there is no reason to suggest that the aspirations set out cannot be realised less in 2023, 2033 or any other year. Recognising the urgent need for development on the African continent and pending the entry into force of the revised Malabo Protocol of 27 June 2014, the principles of sovereignty and self-determination obligate the pan-African Parliament, in the exercise of its advisory powers, to create the platform for African Heads of State to provide a comprehensive justification why the aspirations for development in Africa can only be achieved in 50 years; what has been achieved since 2013; and what are the shortfalls.

Comparable to the aspirations outlined in Agenda 2063, the FTIYP does not provide any extensive framework on how the undertakings will be achieved, nor does it provide a detailed explanation justifying the rationale of the FTIYP being 10-year plans and not at least three- to five-year intervals subject to the sovereignty, relentlessness and willpower of African governments. Exercising the right to self-determination denotes the understanding that African peoples ought to determine the form of economic, social and cultural development that is appropriate to their circumstances. It requires an attitude of choice to be politically, economically, socially, and culturally autonomous, especially with regard to asserting permanent sovereignty over their natural resources.

Failure by African governments to effectively exercise the right to self-determination and permanent sovereignty over their natural resources has meant, for example, that, in the Democratic Republic of Congo, as of 2019, the control and extraction of copper and cobalt is exclusively under the control of the China Molybdenum Company, the largest molybdenum producers in the world. In another example, De Beers, an international corporation owned by Anglo-American and established in 1888, with operations in Botswana, Namibia and South Africa, is very prominent in the extraction of diamonds. It owns 50 percent of Debswana (a diamond mining company in Botswana), whereas the government of Botswana owns 50 percent of the company. In Namibia, De Beers owns 50 percent of Namdeb Diamond Corporation (Pty) Ltd, and the Namibian government owns 50 per cent.

As indicated earlier, natural resources are essential for the realisation of the right to development. African state governments, by virtue of their commitments to the African Charter, have an obligation to create the conditions to ensure that the natural resources that abound on the continent are productively utilised to the exclusive interest of their peoples. Observing the stakes on natural resources, which foreign extractive industries control, as illustrated with the

above examples, it is difficult to be convinced that African state governments can effectively guarantee that the right to economic, social and cultural development guaranteed to the peoples of Africa would be achieved. Agenda 2063 and the FTIYP, which could be considered mechanisms for the realisation of the right to development, are silent on how Africa's natural resources would be harnessed to finance, accelerate development and implement the commitment on "joint cross-border investments to exploit shared natural resources".

7. CONCLUSION

This article encapsulates the dynamics and impact of colonialism in Africa. Colonialism affected the African continent culturally, socially, politically and economically, and its effects remain apparent to this day. To address the colonial injustices and for the African people to overcome underdevelopment, the argument is advanced that African state governments must take seriously the rights to self-determination and permanent sovereignty over natural resources as a means to actualising the right to development that is guaranteed to all the peoples of Africa. With regard to fulfilling the aspirations for transformation and sustainable development contained in Agenda 2063, African state governments need to adopt the strategy of collective reliance. The concept of "African renaissance", which articulates the reasoning of absolute sovereignty for Africa, is only attainable through socio-economic and cultural self-determination, necessitating, among others, effective ownership and control over the natural resources across the continent.

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