



ODUMUNC 2022 Issue Brief for  
The African Union



## Ensuring Legal Exploitation of Natural Resources in Africa

*Old Dominion University Model United Nations*

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# Africa Debate: Will Africa ever benefit from its natural resources?

15 October 2012



**Whether Africa will ever benefit from its natural resources is a question that is more relevant now than ever, as new discoveries of coal, oil and gas across East Africa look set to transform global energy markets and - people hope - the economies of those countries.**

But can the likes of Kenya, Tanzania, Mozambique and Uganda really turn their newfound riches into tangible wealth for ordinary people?

This month the BBC Africa Debate team will be in Ethiopia asking just that. Politicians, business representatives, activists and academics from across the continent will be taking part, as over 800 experts gather in Addis Ababa for the Eighth African Development Forum.

"On average, resource-rich countries have done even more poorly than countries without resources," according to Joseph Stiglitz, former chief economist at the World Bank and professor of economics at Columbia University, in the United States.

There are greater economic inequalities in resource-rich countries than elsewhere - as perhaps indicated by on-going miners' strikes in South Africa, considered one of the most unequal countries in the world - and too often there is also endemic corruption.

In Nigeria, the continent's biggest oil producer, at least \$400bn (£250bn) of oil revenue has been stolen or misspent since independence in 1960, according to estimates by former World Bank vice-president for Africa, Oby Ezekwesili. That is 12 times the country's national budget for

2011. Meanwhile, 90% of people live on less than \$2 per day.

There has been violence between Sudan and South Sudan over oil this year, and Malawi and Tanzania have yet to resolve their dispute over who owns the oil and gas in Lake Malawi.

## A different story?

Ghana started producing oil in December 2010 and there is further exploration all along the West African coastline. Only five of Africa's 54 countries are not either producing or looking for oil.

From Algeria to Angola - and from petroleum to platinum, iron ore to oceans - the scramble for Africa's resources has often caused problems rather than created prosperity.



Botswana is the world's largest producer of diamonds and the trade has transformed it into a middle-income nation

Meanwhile, much of the profits from resource exploitation leave the continent

entirely in the hands of foreign-owned companies which pay low rates of tax

Few African countries process their own raw materials - rather, the value is added elsewhere, to the benefit of others.

Foreign-owned resource extraction companies are often criticised for providing little in the way of local employment and contribution to local economies.

But could there be a different story?

Diamond-rich Botswana has been praised as a country doing things right, experiencing relatively stable and transparent economic growth for decades.

It has also managed to retain some of the profits from processing its raw materials - something most African countries have failed to do.

A once poor European country, Norway, also proves it can be done - distributing its oil wealth so equally that it heads the United Nations Human Development Index (Nigeria comes in 156th place).

So why have so many African countries failed to turn natural riches into benefits for the masses?

Who is to blame for the foreign exploitation, and whose responsibility is it to put things right?

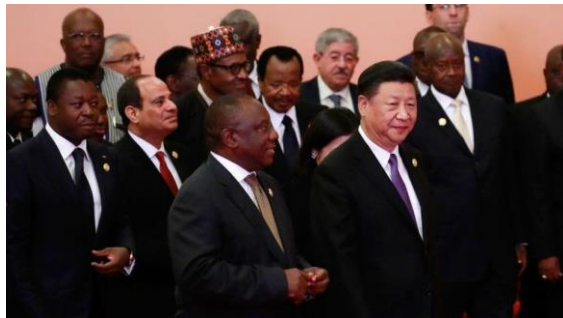
What about possible solutions - renegotiation of contracts, better transparency mechanisms, higher taxation, resource nationalism?

Should the likes of Mozambique and Ghana be celebrating their resource discoveries - and what do they need to do to make the most of them? Will Africa ever benefit from its natural riches?



# How Africa hopes to gain from the 'new scramble'

24 February 2020



Last year's China-Africa summit attracted the most attendance from African leaders

**Major world powers are jostling for political and economic influence in Africa, but what is behind the renewed interest on the continent and what are African countries doing about it? The BBC's Dickens Olewe reports.**

In recent years Africans have become used to seeing their leaders accumulate air miles while honouring invitations to attend a series of Africa-themed summits held around the world, often advertised as win-win partnerships.

Last year, Japan, Russia and China hosted African presidents and heads of government; last month 15 African leaders attended the UK-Africa Investment Summit in London, and invitations have probably already been sent for similar events

reportedly planned in France, Saudi Arabia and Turkey this year.

## What's the interest?

A mixture of the continent's rich mineral resources, unexploited agricultural land, its influential 54 votes at the UN, stemming a growing threat of Islamist militancy, economic immigration, and anxiety, some say racist, about its burgeoning population, are among the issues behind this renewed interest.



Africa is more than just a continent producing security threats or unregulated migration that must be contained"  
**Uhuru Kenyatta**  
President of Kenya

"The world needs to engage and help solve Africa's problems, which, sooner

rather than later, will become global problems," Zambian economist Dr Dambisa Moyo argued in her 2018 article titled: Africa Threat.

"There has never been a greater need for constructive international engagement on the continent. Besides, the global economy could reap significant rewards from positive engagement," Dr Moyo wrote.

Kenya's President Uhuru Kenyatta agrees, saying during a recent visit to the US that Africa is "more than just a continent producing security threats or unregulated migration that must be contained," but that it offers investment opportunities to the world.

However, he warned against the frenzied contest between China, US, Russia, and other countries:

"I have noticed conversations in Western countries and their counterparts in Asia and the Middle East have returned to competition over Africa, in some cases... behaving like Africa is for the taking... Well I want to tell you it is not," Mr Kenyatta added.



Ugandan factory workers assemble mobile phone cases at a factory in Kampala

## But does Africa have a plan?

In 2013, African leaders, under the African Union (AU), agreed on a blueprint to tackle the myriad challenges the continent faces. The plan was dubbed Agenda 2063.

It sets out a vision, among others, to end wars on the continent, develop infrastructure, and allow freedom of movement on the continent.

Another flagship project, the African Continental Free Trade Area (AfCTA), the world's largest free trade pact in terms of countries involved, is projected to improve and boost trade amongst African nations.

Critics, however, say that AfCTA, which comes into effect in July, is not a panacea and faces big hurdles, especially protectionism policies and poor transport infrastructure in member states.

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### Flagship projects of AU Agenda 2063

- Connect all African capitals and commercial centres through high speed train network
- Accelerate intra-African trade and boost Africa's trading position in the global market place
- The development of the Inga Dam in DR Congo to generate 43,200 MW of power
- Remove restrictions on Africans ability to travel, work and live within their own continent
- Ending all wars, civil conflicts, gender-based violence, violent conflicts and preventing genocide
- Establishment of a single African air-transport market (Saاتم)
- Strengthen Africa's space industry
- Create an African virtual and e-university
- Develop an encyclopaedia Africana to provide an authoritative resource on the authentic history of Africa and African life

*Source: Agenda 2063*

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However, the AU is struggling to implement Agenda 2063 because the organisation lacks the carrot-and-stick



influence to corral member countries to focus on the agreed plans, W Gyude Moore, a former minister of public works in Liberia, says.

He argues that with many African countries increasingly saddled with debt and using their resources to pay off foreign loans, they have been distracted from the grand continental plan.



The state of roads has forestalled economic development in many African countries

He says that they should take advantage of the intensified interest in the continent to find affordable ways of improving the transport infrastructure, especially roads, to help boost their economies.

While the Agenda 2063 makes a big play of high-speed rail, **roads are the predominant mode of transport in Africa carrying at least 80% of goods and 90% of passengers**, according to the African Development Bank (AfDB).

The poor state of the road infrastructure in 49 countries in sub-Saharan African countries has led to isolation of people from basic education, health services, trade hubs, and economic opportunities, the AfDB says.

"Only 43% of the roads in Africa are paved. And 30% of all paved roads on the continent are in one country: South Africa," Mr Moore, who is currently a Senior Policy Fellow at the Center for Global Development in the US, says.

"It's almost impossible to build a modern society and a modern economy without roads," Mr Moore says.



A man washes his motorbike in a flooded road in Liberia's capital Monrovia during the 2014 Ebola outbreak

He gives an example of the 2014 Ebola crisis in West Africa, which happened during the rainy season. "What began as a health crisis was actually an infrastructure crisis," he says.

"Taking the blood specimen from the patient to the lab became invalid because of how long it took," he added.

Mr Moore says that research and investment in building paved roads that can withstand heavy rainy seasons would transform the continent.

Another handicap several African countries face is the lack of an effective bureaucracy working in government, Dr Ken Opalo from the Georgetown University told the BBC. Something, he says, democratic African countries can learn from China.

"What makes China succeed isn't autocracy, it's bureaucratic effectiveness... the capacity for making and implementing government policy don't fall in order when you have free elections. It is therefore ridiculous at the moment to expect things to change in countries like South Sudan, CAR or even Malawi," Mr Opalo adds.

The AU admits there have been challenges and it is planning to roll out a platform to enable it to best monitor implementation of the Agenda 2063 targets, the organisation's Vice-Chairperson Quartey Thomas Kwesi, said recently.

"We also welcome criticism," he added.

## Creating jobs

Curiously, Africa's most urgent problem, youth unemployment, is not listed as a flagship Agenda 2063 project but according to AU officials, all projects are aimed at creating a conducive environment for job creation.

Africa's population is set to double by 2050 to 2.2 billion, according to projections from the UN population division, putting pressure on governments to create meaningful employment.



African countries are struggling to create jobs for the youth

Another worrying statistic is that while global poverty levels are dropping, they are rising in Africa, according to the Bill & Melinda Gates Foundation.

The organisation projects that Nigeria and the Democratic Republic of Congo together will be home to 44% of the world's poorest people in 30 years' time if current trends continue.

The agriculture sector which in most countries in Africa offers the best opportunity to lift millions out of poverty is largely untapped and slowed down by lack of investments, Mr Opalo says.

Trapped in desperation and hopelessness, many young people have moved to the cities.

"We now have urbanisation without jobs, and instead of investing in manufacturing we are seeing a lot consumption cities being built. They provide jobs but rely on importation," Mr Opalo says.

It is another multifaceted challenge the continent has to grapple with.



Germany's Chancellor Angela Merkel (C) launched the Compact with Africa in 2017 to help encourage private investment on the continent

Dr Moyo asked provocatively in her 2018 article: If the rest of the world never had to hear about Africa again, would anyone care?

The renewed scramble for Africa suggests the answer is yes.

**"How Africa's population evolves, and how the continent's economies develop, will affect nearly everything people near and far assume about their lives today,"** Africa commentator Howard French wrote recently.

The challenge is for African leaders to match their rhetoric with achievable and measurable plans, Dr Opalo and Mr Moore say.

They add that the leaders should negotiate policy concessions that match their priorities instead of accepting short-term deals and transactions that are often offered in the now popular Africa-themed summits.

## Despite many initiatives aimed at curbing corruption, Africa's resource-rich states continue to face poverty and underdevelopment.

18 MAY 2015 / BY SEBASTIAN GATIMU

In Africa, and indeed in most developing countries across the globe, extractive industries have sparked much controversy and debate.

While these industries bring with them the promise of economic growth and social development, they have, in many cases, instead contributed to the devastation of the countries' governance systems and economic structures, which has led to an increase in poverty in resource-rich areas.

This has seen a rise in human rights abuses, and at times irreversible damage to the environment. Indeed, that promise of economic and social transformation has rarely come to fruition.

History has seen many instances of the siphoning off of Africa's riches, however, present-day culprits are not only from outside of the continent, but include unaccountable African officials and corporations. Foreign organisations collaborate with illegal transnational networks that facilitate the illicit flows of extractives from impoverished countries.



The result is the persistence of grinding poverty in areas that appear to be blessed with plentiful resources. This paradox is visible in Angola, the Democratic Republic of the Congo (DRC), Nigeria and a dozen other African nations.

As the [United Nations observed in 2002](#), Western mining companies that deal in rare metals, gems and other resources have been deeply involved in the large-scale and systematic robbery of the DRC's mineral wealth. These companies worked with a



network of cross-border elites from neighbouring countries, including rival groups of politicians, military leaders and criminal elements. This facilitated a self-financing [war economy centred on mineral exploitation](#).

That promise of economic and social transformation has rarely come to fruition



Worldwide, many states have financed their development through resource extraction. However, this has not worked well in Africa. By some estimates, [the continent holds as much as 30% of global mineral reserves](#), and even higher percentages of the world's gold, platinum, diamonds and manganese. New exploration continues to reveal ever-larger reserves, yet poverty and underdevelopment continue to deepen in resource-rich states.

According to the 2014 Human Development Report, 18 of the 20 countries ranked the lowest [according to the Human Development Index \(HDI\) are in Africa](#), with Niger in the bottom position (187) followed by the DRC (at 186). This is the result of poor natural resources governance, corruption, illegal cross-border networks, illicit financial flows and money laundering – especially in the extractive industry.

It is estimated that Africa loses a total of US\$38.4 billion a year through trade mispricing and [US\\$25 billion through other illicit flows](#). This is more than what Africa receives through aid and foreign direct investment. A joint report by the African Development Bank and Global Financial Integrity found that a staggering 60-65% of this lost revenue disappears in [commercial transactions by multinational companies](#).



There are strong correlations between the extractives industries, corruption and fragility

Corruption is arguably the most important driver of the misappropriation of natural resources, inefficient revenue flows and abysmally low levels of economic growth [in these developing countries](#). Anti-corruption commissions have been created in several African states but have had limited, if any, success in curbing corruption.

The last decade has further seen a proliferation of initiatives aimed at improving the governance of the extractives sector. This includes the [Extractive Industry Transparency Initiative \(EITI\)](#); the Kimberly Process Certification Scheme in 2003; Publish What You Pay; the Revenue Watch Institute and many others. EITI, for example, has established a global standard whereby countries are required to fully disclose taxes, royalties and other fees their governments derive from oil, gas and mining. However, despite these global efforts, things have not changed much. While some countries have ratified initiatives such as the EITI, others, including Kenya, are yet to do so.

There are strong correlations between extractives industries, corruption and fragility. Kenya, for instance, has witnessed several examples of what can happen when corruption becomes so ingrained that a nation's security forces are unable to effectively protect its people. This was seen in resource-rich areas like the Turkana-East Pokot border, where clashes claimed more than 54 lives, and the recent Garissa University College attack, in which 147 people died.

Governments should put transparency and accountability at the heart of their extraction policies



According to the Fragile States Index Rankings 2014, [Kenya is placed 18th in the world out of 178 states](#). Number one on that list is neighbouring South Sudan, followed by Somalia. Yet in the Corruption Index, Kenya ranked position 145 out of 175

countries, South Sudan 171 with [Somalia being the last at 174](#).

Local and international companies continue to declare huge profits while poverty levels continue to increase in most African countries. This points not to exceptionally high [business talent, but more likely to exceptionally low corporate ethics](#). Unreasonable resource extraction contracts and payments made to public authorities and officials easily go under the radar. Intra-company transactions are also often unsupervised and can become a vehicle for tax avoidance.

As a starting point, African governments should adopt national strategies that clearly set the terms for the development of their natural resources, and which are aimed at

poverty reduction and inclusive growth. Natural resources must be managed efficiently and the revenues shared fairly, and strategies must focus on projects that can generate more jobs through links with the local economy, which should include human capital development.

Processing natural resources prior to export would further bring more value and benefits to the poor. Investment in the extractive sector should therefore be a priority for governments to ensure that there is sufficient local skills and capital to extract, process and export these resources. Building on the [Africa Mining Vision](#), governments should put transparency and accountability at the heart of their extraction policies.



## What China Is Really Up To In Africa

**Wade Shepard** Oct 3, 2019

Africa has become the [fastest urbanizing region of the world](#), with rural migrants moving into cities a clip that has even surpassed that of China and India, as the continent becomes one of the final frontiers of the [forth industrial revolution](#). This rapid transition presents big challenges but also offers big rewards for countries willing to risk billions in an infrastructure building revolution unlike anything the world has seen before – and no country has answered Africa’s call quite like China.

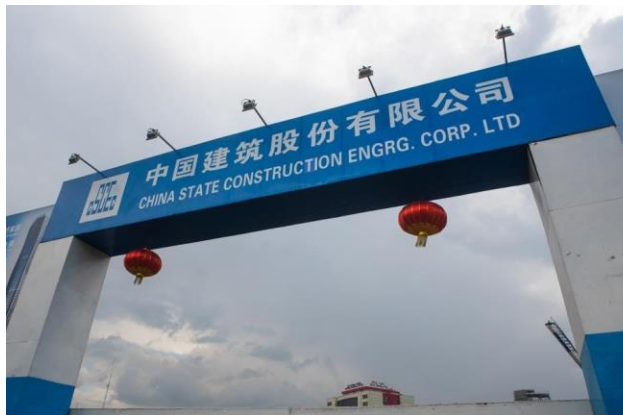
By 2050, Africa’s 1.1 billion person population [is slated to double](#), with 80% of this growth happening in cities, bringing the continent’s urban headcount up to more than 1.3 billion. The population of Lagos alone is growing by 77 people *per hour*. According to McKinsey, by 2025 more than 100 cities in Africa will contain over a million people.

With this breakneck pace of urbanization comes many unprecedented economic opportunities. The IMF recently declared

Africa the world's [second-fastest growing region](#), and many are predicting that it is well on its way to [becoming a \\$5 trillion economy](#), as household consumption is expected to increase at a 3.8% yearly clip [to \\$2.1 trillion by 2025](#). The attention of the world is now drifting towards Africa, with comparisons to 1990s-era China are no longer coming off as radical projections.

China has likewise become a central player in Africa's urbanization push, as a huge percentage of the continent's infrastructure initiatives are being driven by Chinese companies and/or backed by Chinese funding.

“Right now you could say that any big project in African cities that is higher than three floors or roads that are longer than three kilometers are most likely being built and engineered by the Chinese. It is ubiquitous,” spoke Daan Roggeveen, the founder of MORE Architecture and author of many works on [urbanization in China and Africa](#).



ADDIS ABABA, ETHIOPIA - MARCH 07: Construction site for new building with Chinese cooperation, Addis. CORBIS VIA GETTY IMAGES

Even before the Belt and Road was formally announced in 2013, China was making major strides into Africa's urban development sphere.

When the Communist Party of China first came to power in 1949, it was virtually completely unrecognized by pretty much every other country in the world — most of whom favored the Republic of China, the former government that the Red Army chased away to Taiwan. But China began lobbying Africa extensively, getting the People's Republic recognized one country at a time. Before long, these political commitments were being repaid in concrete and steel, as China started building railroads, hospitals, universities, and stadiums throughout the continent. However, there were other reasons for China's early partnerships with Africa: even though the colonial powers were largely gone or on the way out, the continent was still the same stockpile of natural resources it's always been, and China wasted no time stepping into the power vacuum, laying the political and economic inroads that have given Beijing the advanced position it has there today.

[China is now Africa's biggest trade partner](#), with Sino-African trade [topping \\$200 billion per year](#). According to McKinsey, [over 10,000 Chinese-owned firms](#) are currently operating throughout the African continent, and the value of Chinese business there since 2005 amounts to more than \$2 trillion, with \$300 billion in investment currently [on the table](#). Africa has also eclipsed Asia as the largest market for China's [overseas construction contracts](#). To keep this momentum building, Beijing recently announced a [\\$1 billion Belt and Road Africa infrastructure development fund](#) and, in 2018, a whopping [\\$60 billion African aid package](#), so expect Africa to continue swaying to the east as economic ties with China become more numerous and robust.

## Nothing without infrastructure



A caterpillar erects revetment for the Great Wall of Lagos, to give a sustainable and permanent. AFP/GETTY IMAGES

As Chinese President Xi Jinping once pointed out, “Inadequate infrastructure is believed to be the biggest bottleneck to Africa’s development.” Collectively, the countries of Africa would need to [spend \\$130-170 billion per year](#) to meet their infrastructure needs, but, according to the African Development Bank, they are coming up [\\$68-\\$108 billion short](#). Closing Africa’s infrastructure gap has been the obsession of multiple waves of colonists, and China is the next in line to reach into the heart of the continent with railroads, highways, and airports.

“Europeans built infrastructure in Africa at the turn of the century, purportedly also for local economic development, but in essence the projects were used for natural resource extraction. The predecessor of both the Nairobi-Mombasa and Addis Ababa-Djibouti railways can be categorized as such. Both connect inland regions with mineral deposits with major ports on the Indian Ocean,” wrote [Xiaochen Su on The Diplomat](#).

Infrastructure is what Africa needs most and infrastructure is what China is most equipped to provide. It is not lost on many African leaders that hardly 30 years ago China was in a similar place that they are now — a backwater country whose economy made up hardly two percent of global GDP. But over the past few decades China shocked the world in the way that it used infrastructure to propel economic growth, creating a high-speed rail network that now tops 29,000 kilometers, paving over 100,000

kilometers of new expressways, constructing over 100 new airports, and building no less than 3,500 new urban areas — which include 500 economic development zones and 1,000 city-level developments. Over this period of time, China’s GDP has grown more than 10-fold, ranking #2 in the world today.

It is precisely this kind of infrastructure-induced economic growth that Africa is looking for right now, and many African leaders are looking to China to bring their experience to their countries. The central players in many of Africa’s biggest ticket infrastructure projects — including the \$12 billion Coastal Railway in Nigeria, the \$4.5 billion Addis Ababa–Djibouti Railway, and the \$11 billion megaport and economic zone at Bagamoyo — are being developed via Chinese partnerships.

Since 2011, [China has been the biggest player](#) in Africa’s infrastructure boom, claiming a 40% share that continues to rise. Meanwhile, the shares of other players are falling precipitously: Europe declined from 44% to 34%, while the presence of US contractors fell from 24% to just 6.7%.

“The Chinese SOEs they are really taking over the market of infrastructure projects in Africa. It’s true to say that everywhere you go in East Africa you see Chinese construction teams,” said Zhengli Huang, a research associate at the University of Sheffield who has carried out extensive case studies on urbanization in Nairobi.

The reasons for this ubiquitous presence are rather straight forward, as Roggeveen points out: many African contractors simply don’t have the capacity for major development projects, “so if you want to do large-scale construction you either turn to a western firm or to a Chinese firm, but the Chinese firm is always able to undercut you on price.”

## Debt trap?

When we look at Africa, we see many countries chasing dreams of a better economic future



while burying themselves in massive amounts of infrastructure-induced debt that they may not be able to actually afford. There have already been warning signs: the \$4 Addis Ababa-Djibouti Railway ended up costing Ethiopia nearly a quarter of its total 2016 budget, Nigeria had to renegotiate a deal with their Chinese contractor due to their failure to pay, and Kenya's 80% Chinese-financed railway from Mombasa to Nairobi has already gone four times over budget, costing the country upwards of [6% of its GDP](#). In 2012, the IMF found that [China owned 15% of Africa's external debt](#), and hardly three years later roughly two-thirds of all new loans were coming from China. This has some analysts issuing warnings about debt traps – with some even going as far as calling what China is doing a new form colonialism.

## **What does China get out of this?**

China needs what Africa has for long-term economic and political stability. Over a third of China's oil comes from Africa, as does 20% of the country's cotton. Africa has roughly half of

the world's stock of manganese, an essential ingredient for steel production, and the Democratic Republic of the Congo on its own possesses half of the planet's cobalt. Africa also has significant amounts of coltan, which is needed for electronics, as well as [half of the world's known supply of carbonatites](#), a rock formation that's the primary source of rare earths.

However, there is a common misconception that all Chinese projects in Africa have the backing of Beijing. More often than not, Chinese SOEs are operating in Africa on purely for-profit ventures that don't have the ambitions of their government in mind. However, it can be difficult to separate China's commercial intentions in Africa from the strategic, as, in many cases, the two inevitably overlap. The internationalization of Chinese construction firms and IT companies as well as the building of infrastructure to better extract and export African resources, are key concerns for Beijing. So while the infrastructure being built on the ground may not necessarily be orchestrated by Beijing it does ultimately play into China's broader geo-economic interests.

# THE CONVERSATION

## Africa's ambitious new biodiversity laws come with teeth, will protect people too

10 September 2017

Willem Daniel Lubbe



The Maputo Convention recognises traditional rights of local communities and indigenous knowledge.

Africa is known for its rich biodiversity. On a continent where people depend on this biodiversity for their daily livelihood, the question of how animals and plants that live on it will be protected, remains crucial. A difficult question to a lofty ideal. Making leaders accountable for national endeavours affecting the environment is a good start.

In 2016, the 2003 [Revised African Convention on the Conservation of Nature and Natural Resources](#), otherwise known as the Maputo Convention, came into force. This is a document exclusively adopted for the African continent.

Why has it taken 13 years to enter into force? The most obvious reason is that it contains strong provisions that could create

accountability and also slow down social and economic development.

### **Much needed change**

During colonial rule, Africa had two regional conventions geared towards conservation. The first was established in 1900 and was called the [Convention on the Preservation of Wild Animals, Birds, and Fish in Africa](#). This was practical and looked at controlling wildlife harvesting at the time. But signatories did not ratify it and it never came into force.

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A second attempt was the [Convention Relative to the Preservation of Fauna and Flora in their Natural State](#). This Convention entered into force in 1936. As the name indicates, plant based resources was included here. Akin to the first convention, the use of animals and plants by people was a primary concern.

After decolonisation and independence a new conservation document was needed, one that looks after the needs of the people. This resulted in the above 1936 Convention being revised with the help of [UNESCO and other bodies](#). It also resulted in the 1968

African Convention of the Conservation of Nature and Natural Resources, or Algiers Convention. Even though this convention was lauded it did not have enough teeth to enforce what was in the Convention.

As a result various attempts were made to revise it. Eventually, in 2003, the Maputo Convention was adopted. It is the first revision of Africa's environmental framework law in 48 years. This event provides a much needed injection of contemporary environmental norms into African environmental law.

The Maputo Convention contains a number of new provisions but importantly it also contains progressive content. The main difference between the Maputo Convention and its predecessors is its potential to enforce the convention. Complementing this is its recognition of sustainable development and the concept of sustainable use.

Also, the recognition of prevention and precaution as a fundamental obligation is in pace with the importance of nature as a finite resource. There is a clear move away from pure utilitarianism as contained in the 1900 and 1933 conventions.

### **New and progressive content**

The Maputo Convention's strong provisions, ironically, could be its downfall. History shows that regional legal instruments containing strict enforceable provisions get shunned by member states. Proof of this is found in the fact that it took 13 years for 16 member states to ratify the Convention.

This may be due to potential accountability as well as a perceived idea that development will suffer setbacks. The Convention includes the right to a satisfactory environment, a right to development and the concept of sustainable development. These are guiding principles that includes modern environmental approaches.

Another progressive inclusion is the "fundamental obligation" where parties are obliged to follow preventative and precautionary approaches. They must take into account the interests of present and future generations.

The recognition of military and hostile activities as harmful to the environment is also new and progressive. This was not the case in the predecessors and the inclusion is welcomed since Africa suffers from many internal conflicts. According to the Convention, steps must be taken by states to ensure that the environment is not harmed in conflict. But when it is harmed, parties must restore and rehabilitate the damaged areas.

### **Acknowledging people and their rights**

The Maputo Convention places a duty on states to adopt measures that are legislative and regulatory for the spreading of environmental information. There must be access to this information, public participation in matters with a potentially significant environmental impact, and access to justice.

A final right is given to people affected by trans-boundary issues as it is given to those where the conflict began. This means that people may have access to justice where their own judicial system may not be able to help them.

The Maputo Convention also recognises the importance of the people and aims to empower through education and training as well as the recognition of traditional rights of local communities and indigenous knowledge.

There is a dedicated section regulating the relationship between sustainable development and natural resources. In so doing, a mandate is placed to ensure that development is sustainable.

### **Giving environmental law teeth**

One of the biggest drawbacks of the Algiers Convention was that it had no power to enforce laws. By establishing both a Conference of Parties as well as a Secretariat for implementation and administration, the Maputo Convention can enforce its provisions.

According to this provision, signatories must develop and adopt rules, procedures and institutional mechanisms to deal with damage and compensation. It can however not be determined whether these bodies have been established yet. These provisions give it the teeth needed to potentially make it a successful and effective addition to environmental law in Africa.

Considering that the Algiers Convention remains in force for member states and not

yet the Maputo Convention, the efficacy of it remains to be seen. This is especially true in light of the fact that only 30% of African states have ratified the Maputo Convention to date. Some prominent countries who have ratified the Convention include: South Africa, Lesotho, Angola, Rwanda, Chad, Burkina Faso and Burundi. Countries with large and growing economies that have not yet ratified the Convention include: Botswana, Egypt, Equatorial Guinea, Nigeria, Libya and Gabon.

Despite the uncertainties of how effective it will be, the Maputo Convention is bound to have some influence on African states. It may even become a topic in the African judicial system which may greatly contribute to regional environmental jurisprudence.