

Africa Policy Journal

A Harvard Kennedy School Student Publication

Spring 2020

Submit your work to the APJ for publication

Please email submissions to: africa_journal@hks.harvard.edu

Deadline for the 2021 *Africa Policy Journal*: 1 December 2020

The *Africa Policy Journal* (APJ) at the Harvard Kennedy School invites established and emerging writers, including policymakers, businesspeople, lawyers, journalists, artists, researchers, academics, and others to submit their work for APJ's 15th Edition publication.

The APJ publishes op-eds, long-form commentary, academic articles, and artwork on both our online platform and our annual print edition. We accept submission for the online blog on a rolling basis. To be considered for print publication, please submit by 1 December 2020 at the latest. All submissions must be the author's original work and previously unpublished.

Articles and op-eds **must explore how policy** relates to the political, economic, or social climate of **African countries today**. For example, they may assess the impact of an existing or proposed policy, discuss new policy developments, or recommend policy changes. Artwork should reflect a celebration or critique of African cultures and/or the development of African communities.

Submission Guidelines

- All submissions must adhere to the *Chicago Manual of Style* formatting guidelines.
- Academic Articles: 1,000 to 5,000 words, and must include an abstract of no more than 250 words
- Long-Form Commentaries: 750–2,000 words, and must include references where appropriate;
- Artwork/ Film: Submit high-resolution files (300+dpi, JPEG or MP4 format). Each submission must include artwork title, artist name, medium, and year of creation; and
- Op-Eds/Commentaries/Blog posts: 300–800 words

How to Submit

- Format all articles/op-ed/book/film reviews as Microsoft Word documents
- Format all images as JPEG files
- For all citations, use endnotes with a web link for fact-checking
- All submissions must include a cover letter with: (1) author's name; (2) mailing address; (3) e-mail address; (4) phone number; (5) a biography of no more than 300 words; and (6) a headshot.

Please email your submissions to africa_journal@hks.harvard.edu. Submissions for our website are considered on a rolling basis. All submissions received by 1 December 2020 will be considered for print publication.

APJ's Editorial Board will notify all applicants by 29 January 2021. Selected authors may be asked to perform additional fact-checking or editing before publication; compliance with these procedures is required for publication.

Review Process

The *Africa Policy Journal* strives to maintain the quality and integrity of our publication through a submission review process that is fair and transparent. To this end, in as much as it is feasible, all works will be reviewed and scored along a common rubric by multiple staff members.

Submissions should strive to be:

- Relevant: addressing issues of governance, economics, politics and society on the African continent
- Timely: covering opportunities and challenges facing African nations/peoples today
- Thought-provoking: taking part in public discourse on a topic area
- Accessible: readable and pertinent to the interest of a broad audience
- Rigorous: informed and analytically sound
- Fresh: conducting novel analysis, taking unique perspectives, or bringing forth new or underemphasized information into the public discourse

About

The *Africa Policy Journal* is the only student-run scholarly journal in the United States dedicated to African policy. Our mission is to promote a rigorous, informed, and influential policy dialogue that is relevant to current and future issues of governance, economics, politics and society on the African continent. We publish thought-provoking content that provides fresh insights into the most significant opportunities and challenges facing African nations.

Questions?

Contact us via e-mail at africa_journal@hks.harvard.edu.

Staff

Brice Ngameni is the **editor-in-chief** of the *Africa Policy Journal*. Brice is a Cameroonian citizen who immigrated to the United States to further his studies. He graduated from American University in 2012 with a bachelor of science in business administration. He then went to work for Citigroup for a total of six years, during which he rose to the position of assistant-vice president within Citi's Export and Agency Finance division. In that capacity, Brice helped several African governments and corporate clients of Citigroup raise funding for important infrastructure or capital expenditure programs. Brice is passionate about the development of energy infrastructure in Africa and its nexus with sustained and inclusive economic growth across the continent. In his spare time, Brice enjoys watching soccer, reading classic African novels, and playing basketball. Brice also enjoys mentoring teenagers from disfavored economic backgrounds. He served as a mentor for Catholic Big Sisters and Big Brothers.

Hanan Hassan El-Kathiri is the **co-managing editor** and a master of law candidate at the Harvard Law School (2020). She holds a bachelor of laws degree from the University of Nairobi, Kenya, a diploma from the Kenya School of Law, and is an advocate of the High Court of Kenya having been admitted to the bar in 2016. Before joining Harvard Law School, Hanan actively practiced constitutional, commercial, civil, and criminal litigation. She has been engaged in a number of high-profile constitutional litigation matters in Kenya

and was part of a team of advocates who litigated on public interest issues touching on the bill of rights, interpretation of statutes, and the enforcement of constitutional provisions. She is also a certified professional mediator. She plans to focus her studies in administrative law & public policy, constitutional and human rights law, international law, foreign comparative law, and jurisprudence and legal theory. She has always been interested in addressing issues on policy development in Africa, politics, governance and society in general in both Kenya and other African countries.

Guy Adam is the **co-managing editor** of *Africa Policy Journal*. He was born in Darfur, located in the western part of Sudan. He was forced to leave his country after the war broke out and ended up in Israel, where he attended college and eventually made his way to the United States. He studied at the College of County in Chicago, majoring in political science and international law. In August of 2017, he arrived at Harvard University and remains focused in international human rights and criminal law. He quickly joined *Africa Policy Journal*, where he met some amazing people. Guy is heavily involved in on-campus activities and is currently co-managing the *Africa Policy Journal*, drawing people's attention to issues of the continent.

Ameze "Mez" Belo-Osagie is the **senior interview editor** and a first-year student in a JD/PhD program split between Harvard Law School and Stanford's Department of Political

Science. Mez was born in Boston to Nigerian and Ghanaian parents, and grew up between Lagos, London, and Accra. She graduated cum laude from Yale with a dual distinction in political science and African studies. Later, she completed her National Youth Service in Nigeria, working for J.C Wylie Strategies & Solutions, a security-focused think tank, and volunteering at the Legal Defense and Assistance Project. In her free time, she enjoys African literature and pop-social science podcasts.

Michael Gwala is the **communications editor**. He is a master of laws student at Harvard Law School. He is an advocate and a member of the Johannesburg Bar in South Africa, where he hails from. Michael is a former clerk to Justice Edwin Cameron at the Constitutional Court of South Africa. Prior to converting and becoming an advocate, he was an attorney and a transactional lawyer for a number of years. As a transactional lawyer, he was made a partner at one of the leading law firms in South Africa at the tender age of 24. He also spent a year working in the M&A department at Skadden Arps Slate Meagher & Flom in New York—during which time he was admitted as an attorney and counselor-at-law in the State of New York.

Awab Elmesbah is the **online editor** of *Africa Policy Journal* and master of public policy student at Harvard Kennedy School. Before that, Awab worked as a TV associate producer for a Sudanese media production company and as policy and research coordinator for Center for Development and Public Policy in Khartoum. His areas of interest cover

issues around economic transformation and its implications for social justice, public sector reform, and the resurgence of national development planning in Africa. Awab holds a bachelor's of science degree in electrical engineering from University of Khartoum, and a master's of science degree in African development from LSE.

Dawit Gessese is the **senior partnerships editor** and a joint degree JD/MBA candidate at Harvard Law School and Harvard Business School. Before starting graduate school, Dawit was a private equity investor at Advent International based in Boston. He has also worked in investment banking at Lazard in New York and spent time working in growth equity investing in Southern Africa. Dawit was born in Philadelphia, Pennsylvania, to parents from Ethiopia and holds a bachelor's degree from the University of Pennsylvania.

Shaan Mavani is an **interview editor** and a mid-career master of public administration candidate at the Harvard Kennedy School. Shaan has broad experience across the public, private, and international development sectors, most recently serving as senior director and senior advisor to the CEO at the Ethiopian Agricultural Transformation Agency in Addis Ababa. Before this, he worked with the Boston Consulting Group and the Royal Bank of Scotland Group. He has a master's degree focused on peacebuilding and development in Africa, and an undergraduate degree in mathematics.

Daniel Oyolu is an **interview editor** and a JD candidate at Harvard Law

School. Daniel was born in Toronto, Ontario, to Nigerian parents and grew up in Houston, Texas. He studied Spanish at Bates College and studied abroad in Cuba, Spain, and Brazil. He worked as a program coordinator at the Berkman Klein Center for Internet & Society, a research center exploring how the Internet is impacting and changing the world. He also worked as a fellow on Ayanna Pressley's historic congressional campaign in 2018. He loves traveling, new music suggestions, trying new restaurants, and learning languages.

Leah Coates is an **interview editor** and an MBA candidate at Harvard Business School. Before starting graduate school, Leah was a consultant at Bain & Company in Boston, Nigeria, and Ethiopia. She also worked in private equity investing at Emerging Capital Partners in Nairobi, Kenya, and spent time at Actis in London supporting fund strategy initiatives. Leah was born in Colonial Beach, Virginia, and holds a bachelor's degree in global development studies from the University of Virginia.

Jacob Omorodion is an **interview editor** and a Nigerian-Canadian third-year law student at Harvard Law School. Along with being an interview editor at APJ, Jacob is the president of the Harvard International Arbitration Law Students Association and a class marshal of the Harvard Law School Class of 2020. At HLS, his main areas of focus have been public international law, alternative dispute resolution, and international arbitration. Jacob has competed for Harvard and won awards at the CPR International

Mediation Competition in Brazil and Vis International Arbitration Moot in Hong Kong. He is currently an oralist on the Jessup International Law Team. He has worked law firms in New York, Washington DC, and Paris. He has worked at High Commission of Canada to the UK, the Ministry of Trade of Nigeria, and an international NGO in South Africa. Prior to Harvard, Jacob earned his bachelor's degree in political science from McGill University and his master of science degree in global governance & diplomacy from the University of Oxford.

Hezekiah "Hez" Shobiye is the **lead publication editor** with the *Africa Policy Journal*. Hez is a public health professional who is passionate about increasing access to quality and affordable healthcare for all. Prior to coming to Harvard, he worked as an advisor to the Born Free Africa Foundation supporting the Nigerian federal health ministry's plan to eliminate mother-to-child transmission of HIV, and most recently worked with PharmAccess Foundation in the Netherlands to explore provider-contracting strategies for a new State Health Insurance Scheme in Nigeria. His professional experience spans across several countries including Nigeria, Switzerland, the Philippines, and the United States. In 2012, he co-founded Promenade Youth Initiative, a nonprofit that has empowered more than 2,500 Nigerian youth with skills for entrepreneurship, leadership and responsible citizenship. In 2014, Hez won the Nigeria-America Partnership Award for his passion and contribution to social change. He is an alumnus of the Global Health Corps and Carrington Youth Fellowships in

the United States and Nigeria respectively. He earned his doctor of public health degree from Boston University.

Bulelani Jili is a **publication editor** and PhD student with the African and African American Studies and Government departments. His research interests include Africa-China relations, ICT development, African Political Economy, Internet Policy, and Privacy Law. He is currently conducting research with the Globalization, Lawyers, and Emerging Economies project at Harvard Law School. His recent paper, *Chinese Social Credit initiatives and African Surveillance States*, particularly discerns the development of surveillance technology in China and abroad. He has also written about the Chinese guiding cases system (*Peking University Law Journal*, 2019) with Guo Li, professor of law and vice dean at Peking University Law School.

Tomisin Ogunsanya is a **publication editor** and a JD candidate at Harvard Law School. He has a bachelor of arts degree in political science from Emory University and a master's degree in management and strategy from the London School of Economics and Political Science. In 2019, he served as a speaker coordinator for the 2019 LSE Africa Summit and has interned at firms such as Sullivan and Cromwell and the Boston Consulting Group. Having grown up in Accra, Nairobi, and Lagos, Tomisin has a firm interest in African development and international diplomacy.

Jenny Kwon is a **publication editor** with the *Africa Policy Journal* and

currently pursuing her master of public policy degree at the Harvard Kennedy School. Prior to HKS, Jenny worked for the United Nations Development Programme in the Rwanda country office, where she designed and implemented programs that support the Rwandan government in its efforts to leapfrog old technologies, infrastructure, and destructive development pathways to build a green economy that is resilient to climate change. She earned her bachelor's degree from Northwestern University, where she majored in social policy and global health. Originally from South Korea, Jenny also spent four years in Johannesburg, South Africa.

Faith Adesua is a **publication editor** and a master of laws candidate at Harvard Law School. Her focus is on international trade and finance law, law and development in Africa, and international arbitration. Faith qualified to practice law in Nigeria in 2009. She started off her career in criminal litigation working for the Federal Legal Aid Council in Nigeria during her one-year National Youth Service, defending accused persons on trial for various offences and providing free legal services to indigent people that could not afford the cost of legal services. She was an associate in the litigation and arbitration department of Aluko & Oyeboode, one of the largest and most prestigious law firms in Nigeria. She was the assistant company secretary of Guinness Nigeria Plc and Diageo Brands Nigeria Limited, both subsidiaries of Diageo Plc (a multinational company listed on the London and New York Stock Exchanges). Prior to the start of her master's program, she

was the commercial legal manager of Guinness Nigeria Plc, providing legal support to different departments in the organization and advising on strategic company projects. She was subject matter expert on the company's competition and anti-trust, data privacy, anti-money laundering, and anti-corruption policies, among several other responsibilities. Faith was a recipient of the prestigious Senior Corporate Counsel of the Year award at the Africa Legal Awards held in Johannesburg, South Africa, in 2018. In her spare time, she loves travelling and spending time with family.

Augustine B. Kidisil is a **publication editor** with the *Africa Policy Journal* and a master of laws candidate at the Harvard Law School, where he is focusing on international trade law, public international law, law of the sea, and international commercial arbitration. Prior to his studies at Harvard, Augustine practiced with the law firm Kimathi and Partners, Corporate Attorneys in Accra-Ghana. He is a barrister and solicitor of the Supreme Court of Ghana, recognized as *Next Generation Lawyer* by *The Legal 500*. Augustine holds a master of laws degree in maritime law from the University of Southampton, a master of international law and economics degree from the World Trade Institute, Bern, and a bachelor of law degree from the Kwame Nkrumah University of Science and Technology, Kumasi-Ghana.

Emenike Chinaza Omeye is a **publication editor** and a master of laws student at the Harvard Law School. He graduated from the University of

Nigeria and practiced as a corporate lawyer in Lagos, during which he advised on some landmark transactions in the Nigerian corporate space. He also worked with the deal advisory and tax practice groups of the KPMG and PwC offices in Lagos. Emenike is interested in international finance and trade, especially within the African continent. He believes that the key to accelerating Africa's economic and social progress may lie in increasing financial and trade integration among countries in the continent.

Afia Poku is a **publication editor** and a master of laws candidate at Harvard Law School (2020). She completed her bachelor of laws degree at the Kwame Nkrumah University of Science and Technology, Kumasi, Ghana, where she obtained a First Class Honours. She is passionate about legal research particularly in the fields of law and development and corporate law. She contemplates a fulfilling career in these two fields.

Board

Raymond Akongburo Atuguba is dean and associate professor of law at the University of Ghana School of Law, where he has taught since 2002. After his first law degree from the University of Ghana (1997) and his call to the Ghana Bar (1999), he received both his master of laws and doctor of juridical sciences degrees from Harvard Law School in 2000 and 2004.

He has been a visiting scholar and visiting professor at University of Nottingham in the United Kingdom, Harvard in the United States, Ku Leuven University in Belgium, Université Sciences Po in France, and Monash University in Australia. He was a visiting professor of law and the Henry J. Steiner visiting professor of human rights at Harvard Law School during the 2018–2019 academic year. During one of his sabbatical leaves, Professor Atuguba served as the executive secretary to the president of the Republic of Ghana (2013 to 2015), working directly with the president to provide policy anchorage between the executive presidency and about a thousand public service agencies. Before this, he worked as the executive secretary and principal researcher to the Constitution Review Commission (2010–2012), set up to undertake a consultative review of Ghana's 1992 constitution.

Professor Atuguba is also co-founder, former executive director, and former board chair of the nonprofit institution Legal Resources Centre, and the Founder and Team Leader of Law and Development Associates, a law and consultancy firm. Over the years, and in the context of his work with these

institutions, he has championed the development and application of innovative and creative ideas, solutions, and facilitation techniques for the resolution of some of the most intractable problems of African polities.

He has consulted widely for various international organisations and national institutions, including the governments of Ghana, Gambia, Lesotho, Liberia, and Sierra Leone. He has also consulted for the United Nations, the World Bank, the European Union, the African Union, the International Labour Organisation, the United Nations Development Programme, the United Nations Office on Drugs and Crime, the United Nations International Children's Education Fund, the United Nations High Commission for Refugees, the International Organisation for Migration, the United States Agency for International Development, the United Kingdom's Department for International Development, the Economic Community of West African States, the British Council, Action Aid International, Plan International, Oxfam and several other intergovernmental bodies, and international and local development agencies and nonprofits.

Professor Atuguba has researched and published extensively, mostly in relation to the intersection of law, human rights, policy, governance, the politics and economics of development, institutions, and institutional change. He has written more than 100 monographs, articles, book chapters, research reports, and technical papers on issues of public policy,

constitutionalism, human rights, law and development, and institutional renewal in Africa. He has also presented more than 250 papers on these subjects at national and international conferences in all continents of the world, including expert papers to the leadership of Parliament and to Parliamentary Committees in Africa, and facilitated dozens of training workshops.

Professor Atuguba's research interests are in:

- constitutional and administrative law
- law and development; and
- human rights.

Claude Grunitzky is the founder of TRACE and TRUE Africa, a media tech platform championing young African voices all over the world. In November 2016, TRUE Africa was funded by Google's Digital News Initiative.

In February 2003, Grunitzky and two business partners completed a multimillion-dollar financing deal led by Goldman Sachs Group. As a result, the TRACE brand is now being leveraged globally across various television, event, and interactive platforms. TRACE, which now reaches an audience of more than 100 million people across 150 countries, was successfully sold to a French investor group in July 2010.

Grunitzky was raised between Lomé, Togo; Washington, DC; Paris, and London. Growing up, Grunitzky, who speaks six languages and carries three passports, was exposed to many different cultures. These foreign interactions shaped his transcultural philosophy and informed the creative energy of his media ventures.

A graduate of London University and MIT, Grunitzky is also the president and a board member at the Watermill Center, a laboratory of inspiration and performance founded by theater and visual artist Robert Wilson, which provides a unique environment for a global community of emerging and established artists and thinkers to gather and explore new ideas together. Grunitzky is also a board member at MASS MoCA, a museum in Massachusetts that is one of the world's liveliest centers for making and enjoying today's most evocative art, and at Humanity in Action, a foundation that works internationally to build global leadership, defend democracy, protect minorities, and improve human rights.

Ayisha Osori is a lawyer and consultant with more than 18 years of experience in the public and private sectors including work with the World Bank, United Nations Children's Fund, National Democratic Institute, and Department of International Development on projects related to good governance, gender equality, women's economic and political participation, and ending violence against women. She sits on the board of various organizations in the public and private sector.

She is a published writer. Her latest book, *Love Does Not Win Elections*, is about her experience contesting the People's Democratic Party primaries in 2014 and was released to much acclaim. She collaborated on a series of children's textbooks on social studies used in primary schools and a children's reference book on Nigeria. She kept a weekly column for five years,

in *Thisday's The Lawyer* newspaper, and most recently, as the *Nigerian Citizen* for the *Leadership* newspaper, where she covered legal and social issues ranging from state-sponsored marriages to good governance. Ms. Osori is a regular commentator on radio and television and has been involved in numerous campaigns to improve social justice for women and girls and to improve governance in Nigeria.

Ms. Osori, an Eisenhower Fellow, graduated with law degrees from the University of Lagos and Harvard Law School and has a master in public administration degree from the Harvard Kennedy School. She is licensed to practice law in Nigeria and the State of New York.

Editors' Remarks

We are proud to bring to you the 14th edition of the *Africa Policy Journal*. This year's issue is a reflection of the uneven picture painted by the major political and economic events that shaped the continent in 2019.

Sudan is a perfect embodiment of this contrast. The country's government was long written off in policy circles as a poster child of brutal unremovable authoritarian regimes "*a la Africaine*." Yet economic pressures gave way to mass protests and finally the ousting of the world's then only sitting president indicted for war crime. Though often threatened by reactionary suppressing forces, the Sudanese revolution ultimately led to the arrest of the infamous Omar El Beshir and the formation of a mixed civilian and military transitional government. Mr. Nasreldin Abdelbari, a respected human rights activist from the Darfur region, was appointed minister of justice. Sudanese people are now permitted to hope that human rights and the rule of law will at last become enshrined in the judiciary system of their country. Whilst it is too soon to assess the success of the transitional Sudanese government, the very involvement of civil society in Sudanese politics, in itself, is a victory to be revelled in.

For the first time in its meandering history, the Democratic Republic of Congo (DRC) has seen a peaceful transition of power at the very top of its government. There is little doubt that the election of Félix Tshisekedi was marred by significant electoral irregularities, facilitated or unimpeded by the introduction of electronic voting machines ("machines a voter") dubbed by Congolese as "machines a voler" (stealing machines). However, the release of Kabila-era political prisoners, the efforts to bring peace to the eastern part of the DRC and the pledge to expand free education to Congolese children are initiatives of the

new government worthy of commendation, to the extent they prove to be more than ephemeral political subterfuges.

Succeeding to the DRC's Dr. Denis Mukwege, Ethiopian Prime Minister Abiy Ahmed was awarded the Nobel Peace Prize for easing tensions with Eritrea and ushering in an era of "glasnost" characterized by unprecedented levels of political freedom for Ethiopian citizens. However, this overture showed limits during the October riots, which led to the killing of more than 60 people in the Oromo region of the country. The prime minister's response to the crisis has been largely criticized as tardy and tepid.

In Cameroon, the Anglophone crisis persists with its ever-rising tolls of human casualties and refugees. However, the country experienced in the second half of the year a much-needed "détente" evidenced by the national dialogue on the crisis (whose degree of inclusiveness has nonetheless been called into question by many) and the release from prison of political opponents.

Tunisia mourned the passing of its president, Beji Caid Essebsi. Following the death of President Essebsi, Tunisia made a new stride in its walk towards a functional democratic government by holding elections generally regarded as free and fair.

A Baoulé proverb from Cote d'Ivoire says: *On a beau suivre un chemin accidenté, on en ressort toujours avec les hanches droites*. This saying roughly translates to: "Though one may follow a tortuous path, one will still emerge with straight hips." The African continent overall has been engaged since independence on such a winding road. Though it would be a fool's errand to predict when it will reach final harbour, the editors of APJ are, on balance, encouraged by the trends in political freedom in countries such as Sudan, Tunisia, and the DRC, just to name those few. We say this without denying the persistence of real political, social, and economic challenges in those countries and others. Our assessment is in no way a call to complacency or a misplaced expression of satisfaction. It is an invitation to those who govern our beloved continent to accelerate and deepen reform in order to meet the legitimate expectations shared by Africans all across the continent.

We view our work at APJ as enthusiastic heralds of progress and unabashed alarms of setbacks. We believe that this role can only be constructive if it rests on journalistic work that is diverse in both its thematic approach and geographic scope. Thus, this year, we have been working to produce and publish interview series on a wide range of themes, including technological innovation, urbanization, democratic progress, and the Herero and Nama genocide in Namibia. We invite you to stay tuned over the coming months, as we gradually make this content available on our website.

Lastly, we would be remiss if we failed to thank and acknowledge the contribution of those who made possible the publication of this year's journal. The quality of a journal's content is determined by the professionalism and dedication of its staff. APJ's editors have unreluctantly burned through the proverbial midnight oil, while juggling with competing academic demands, in order to deliver articles commensurate with the high standards of our readership. We

thank them for their devotion. We also thank the Center for African Studies, Dean Douglas Elmendorf, Martha Foley, the Harvard Kennedy School Student Government, and the Malcolm Wiener Center for Social Policy for their unwavering support through the years.

We thank you for taking the time to engage with the materials we selected and edited. We hope you will find in them the inspiration to carry on the arduous task of reshaping the narrative on our beloved continent.

Brice Ngameni

Editor-in-Chief

Harvard Africa Policy Journal

Hanan El Kathiri

Co-Managing Editor

Harvard Africa Policy Journal

Guy Josif

Co-Managing Editor

Harvard Africa Policy Journal

Hezekiah Shobiye

Lead Publication Editor

Harvard Africa Policy Journal

Contents

16—Africa’s Next Decade of Public Policy Development Is Being Led by Technology Innovators

By Alexander O. Onukwue

20—The Democratic Republic of Congo: The Blind State

By Kayemba Mvula

23—The Climate Change Challenge that No One Is Talking About: Its Impact on Africa

By Simon DeBere

27—Tax Base Erosion: A Cautionary Tale of the DRC

By Laure Gnassou, Experienced Economist

41—Why the Kenya-Somalia Maritime Dispute Is Far from Over, Regardless of the International Court of Justice Ruling

By Philip Onguny

52—African Infrastructure with Chinese Characteristics

By Karl T. Muth, PhD

58—The Politics of Biafran Separatism in Nigeria: Spikes and Falls in the Intensity of the Agitation

By Adeniyi Jeremiah Awoyemi and Olugbenga Opeyemi Okuande

71—Patrick Loch Otieno (PLO) Lumumba

By Memme Onwudiwe and Guy Josif

Africa's Next Decade of Public Policy Development Is Being Led by Technology Innovators

By Alexander O. Onukwue

Alexander O. Onukwue is a Nigerian journalist with TechCabal.com, a digital media publisher of news and analysis on the technology space in Africa. He covers innovation policy, technology regulation, and lifestyle evolutions engendered by modern technologies. He's at the concluding stages of a master's degree in research and public policy at the University of Lagos, Nigeria. For his project thesis, he conducted a study to understand the challenges academic health researchers face in communicating their findings to policymakers. His reporting and analysis aim to explain policy processes, helping innovators, regulators, and the public with critical, clear understanding of the stakes.



In March 2018, young entrepreneurs, technology enthusiasts, and an invited government official gathered for a meet-up at the Impact Hub in Ikoyi, Lagos, Nigeria. At events featuring such people, participants usually exchange entrepreneurship stories: the grueling demands of product design, hacks for crafting investor-ready pitches, and navigating the challenges of team building while bootstrapping. But the presence of coloured sticky notes, board markers, and grouped brainstorming sessions gave the room a pedagogical, wonky, yet thrilling ambience.

This could be the future of the public policy development process in Africa. In the last decade, such settings have sprung up across the continent for co-creating innovation policies that will spur economic and social development. Since 2018, in countries like Senegal, Mali, Cote d'Ivoire, and

Nigeria, innovation-focused organisations like i4policy¹ have facilitated dialogues and “hackathons” that bring entrepreneurs, technologists, and government representatives together to forge multidisciplinary policy development. From those rigorous evidence-based conversations, the governments of Senegal and Mali² each produced draft legislations for a “Startup Act” towards the end of 2019.

What does this portend? Could this be the model for leaping over Africa's historic problems in efficiently developing inclusive, pragmatic policies?

Overcoming the Militating Factor

Co-creation, as a policy development approach, proceeds from democratic proclivities. When African countries mostly had militaristic executive branches, it would be quite ambitious, if not presumptuous, to propose meetings where governments were

expected to heed citizen-sourced ideas on “what the government should do or not do.” In governments led by dictatorships, policy development is very much a top-down process.³ This was the case in Africa where the post-independence elite more or less abused their intellectual head start over compatriots, lording it over them.

As countries adapt towards greater democracy in the 21st century, we have witnessed a marriage of openness to innovation and more distributed systems of policy development. Tunisia, formerly led by authoritarian regimes, became the first African country to develop and pass startup legislation⁴ from a bottom-up process. In Rwanda, the still-authoritarian government gives broad access to innovation incubation, making Kigali a top destination⁵ for technology and innovation in the region.

The gains of web 2.0 and emerging technologies have accrued from cross-border conversations—imagine the graphic designer in Rwanda hired by an advertising agency in Egypt and paid via the Nigeria-founded payments company Flutterwave. Perhaps today’s quasi-democratic African leaders are motivated to key into the rave by self-interest. But cross-border conversations have opened spaces on the roundtable for practitioners to substantially influence government directives.

Technologists for Policy

When the world needed urgent, sustainable responses to dire human conditions resulting from the Great Depression in the 1930s, policy innovators like John Maynard Keynes led the way. In the decades after,

economists assumed increased prominence as public policy architects. Whether it’s Milton Friedman’s monetarism animating the deregulation policies of the Reagan-Thatcher era in the 1980s, or Jonathan Gruber forging Obamacare, or 2019 Nobel Laureate Esther Duflo showing the utility randomized trials in measuring policy adoption, economists have shaped and ruled the world.⁶

In 2020, every news story will have a technology component. Every economic policy will succeed or fail depending on the technological frameworks nudging market decisions. As the world accelerates into an irreversible stream of possibilities, it behooves Africa’s technologists to seek further attention from their governments and the public. What economists were to public policymaking in the 20th century, technologists will become as the 21st enters its third decade.

This convincing thesis, attributable to Bruce Schneier⁷—an American fellow at the Berkman Center for Internet & Society at Harvard Law School—captures an intriguing proposition: when more African tech founders take active interest in policy development, change happens quicker. Public policy—usually abstract and amorphously communicated to the public—will sound more concrete and practicable when solution providers play leading roles.

Change will not happen overnight, but recent gains should encourage more effort. In 2011, the Nigerian civic technology organisation BudgIT was born at a hackathon organized at a co-creation event. Nine years later, BudgIT has become one of West Africa’s leading private organisations advocating public sector

accountability. Its engaging model of using social media to communicate the country's annual budgets to citizens in appealing graphics has attracted partnerships from sub-regional governments who want to appear more transparent to their electorate. Funding from Omidyar Network, the Gates Foundation,⁸ and others have encouraged BudgIT to move into Ghana and Sierra Leone.⁹ BudgIT has also built an innovation hub of its own¹⁰ where new tech-driven public policy-minded ventures are being incubated to tackle present and future policy challenges.

solutions at scale. In December 2019, leaders in Nigeria's financial technology space converged to dialogue on a first-ever industry innovation sandbox on fintech.¹³ Should they succeed, they would have engineered a much-needed institutional catalyst for driving financial inclusion and propelling economic growth. Importantly, it will be one more argument in favour of citizen-led co-creation as Africa's magic wand for successful policy developm

Entrepreneurs, Shoot Your Policy Shots

A brave new African decade beckons. After lagging much of the world for the last half-century, technology presents the continent an opportunity to skip various trial-and-error stages. Accelerating development in the new decade calls for bold action by entrepreneurs to leverage open mediums in attracting the attention of governments. These days, an effective way to demonstrate expertise on social media is to display one's product and tag a potential client.¹¹ In the same way, Africa's more than 600 tech hubs¹² and innovation enthusiasts should be earnestly plugging their antecedents and competence to produce better public policy outcomes.

Africa's thriving technology companies are those solving pressing, continent-wide needs. Technologists know better than governments what the pain points are. But as founders develop solutions to one problem, they often become aware of others, creating a need to form networks of actors who can think up and implement

Endnotes

- 1 “Shape Inclusive African Innovation Policies,” *i4policy*, accessed 30 November 2019 <https://i4policy.org/>.
- 2 Omolara Oseni, “Senegal to become 2nd African country to enact a Startup Act in the past year,” *Techpoint* (company blog), 27 November 2019, <https://techpoint.africa/2019/11/27/senegal-start-up-act/>.
- 3 “An Intro to China’s Policymaking Process: From national plans to local derivatives,” *Trivium China*, accessed 6 January 2019, <https://trivium-china.com/2018/09/03/an-intro-to-chinas-policy-making-process/>.
- 4 Khaled Kteily, “Bottom-Up Policymaking: A Look At The Origins Of The Landmark Tunisian Startup Act,” *Entrepreneur Middle East*, 11 June 2018, <https://www.entrepreneur.com/article/314803>.
- 5 Munira Abdelmenan Awel, “Africa’s first ‘Silicon Valley’ to be built in Rwanda,” *Anadolu Agency*, 16 November 2018, <https://www.aa.com.tr/en/africa/africas-first-silicon-valley-to-be-built-in-rwanda/1313278>.
- 6 “When economists ruled the world,” *The Economist*, 31 August 2019, <https://www.economist.com/books-and-arts/2019/08/31/when-economists-ruled-the-world>.
- 7 Bruce Schneier, “Why technologists need to get involved in public policy?,” filmed at World’s Top 50 Innovators 2019, Royal Society, 23–25 September 2019, Cyber Security Session, video, 00:01, <https://www.youtube.com/watch?v=U2jn-4pXDZn0&feature=youtu.be>.
- 8 Yomi Kazeem, “Data transparency is being used to tackle Nigeria’s corruption problem one report at a time,” *Quartz Africa*, 3 February 2017, <https://qz.com/africa/899190/budget-has-raised-3-million-in-funding-from-omidyar-network-and-bill-and-melinda-gates-foundation/>.
- 9 “Nigeria holds public servants accountable with budget watchdog,” *Apolitical*, accessed 30 November 2019, https://apolitical.co/solution_article/nigeria-holds-public-servants-accountable-budget-watchdog/.
- 10 “About us,” *CivicHive*, accessed 30 November 2019, <https://civichive.org/about-us/>.
- 11 Aisha Salaudeen, “How a chance meeting with Twitter bosses landed a Nigerian developer his dream job,” *CNN*, 14 November 2019, <https://edition.cnn.com/2019/11/13/africa/nigerian-developer-gets-job-from-twitter-boss/index.html>.
- 12 “618 Active Tech Hubs in Africa: The Backbone of Africa’s Tech Ecosystem,” *Briter Bridges*, accessed 30 November 2019, <https://briterbridges.com/618-active-tech-hubs>.
- 13 Joy Nwankwo, “Financial Services Innovators Launch Nigerian Industry Innovation Sandbox,” *TechEconomy*, 12 December 2019, <https://techeconomy.ng/2019/12/13/financial-services-innovators-launch-nigerian-industry-innovation-sandbox/>.

The Democratic Republic of Congo: The Blind State

By Kayemba Mvula

Kayemba Mvula is a Congolese American, data-driven nonprofit and international development professional with extensive experience in the United States and Sub-Saharan Africa. He has worked on a number of social and economic issues, including economic development, criminal justice policy, international trade, human rights, and environmental pollution. His expertise is primarily in program monitoring and evaluation, but he has extensive experience conducting practical research more broadly. Originally from the Democratic Republic of Congo, Kayemba has lived most of his life in New Orleans, Louisiana, where he currently resides. Kayemba is passionate about data and practical research, as well as its capacity to help organizations make important decisions.



In his book *Seeing Like a State*, James S. Scott discusses how the modern state came to be, primarily by making its “territory knowable,” meaning that aspects of a territory or a state need to be measured, assessed, or quantified to allow government programs to be implemented. Core to his thesis, though it goes relatively undiscussed in the book, is how data come to be central to modern statecraft.¹ So, if data are core to allowing a state to “see,” how does one operate a state that is effectively blind?

The Democratic Republic of Congo (DRC) has not held a census since 1984,² so statistically speaking, we know very little about the country. This lack of data doesn’t just limit researchers and academics but the state itself. We are now coming up on the first anniversary of the presidential elections in the DRC, and Félix Tshisekedi is now president of the fourth largest country

in Africa.³ Though the results of those elections were long in dispute,⁴ what we do know is that if poverty reduction and economic growth are core to the government’s mission, then the DRC is currently operating at a deficit.

According to the National Agency for the Promotion of Investment in the DRC, the country currently possesses 238,935 kilometers of roads; approximately 5,000 km of railways; 89 hydroelectric plants; 500 airstrips; and 5 international airports.⁵ Unfortunately, this already existing infrastructure, which is necessary for development, is inadequate, and much of it is in serious disrepair.^{6,7}

Much the same can be said of the country’s data infrastructure, as it is recommended that countries hold a census every ten years.⁸ The fact that a census has not been conducted in the DRC in more than 30 years has forced analysts in the country to rely on

estimates instead.⁹ How can a government go about building schools, roads, or hospitals without a clearer understanding of what the demand or need for them might be?

Data should be at the core of policy decisions and an indispensable resource to governments.¹⁰ Across the globe, censuses are used to not only allocate funds for roads, schools, and bridges but also to allocate political representation, as well as fund health and wellness programs.¹¹ In short, a census allows important decision makers to better understand how a country is changing and ensure that all citizens receive their just due.¹² Without the existence of reliable census data, not only has the Congolese government been at a disadvantage, but the private sector has been moving blind as well, as business leaders often utilize local indicators to make investment decisions.¹³ This lack of certainty is no doubt inhibiting not only investment but growth as well.¹⁴

None of this has been lost on policymakers. The issue of the state “moving blindly” was raised by Jaynet Kabila, a member of Parliament and sister of then president Joseph Kabila in 2012. Ms. Kabila raised the issue in Parliament while questioning how then prime minister Matata Ponyo and his government planned to implement its social and development objectives without knowing how many people there are in the country—effectively calling for a new census.¹⁵ This problem, unfortunately, persists today.

Though the holding of censuses counts on the continent has proven to be contentious at times,¹⁶ there is little doubt that data should be driving policy decisions. The need for improved

national statistics on the continent is so stark that in 2010, due to improved data sources and a shift in counting methods, Ghana’s GDP was found to be 62 percent higher than originally believed.¹⁷ Such gaps in knowledge cannot be helpful to the policy making process.

Thus, while there is much that the recently formed Congolese government could be doing to help lift its population from poverty and ensure economic growth, it may be wise for President Tshisekedi to consider starting with a simple population count.

Endnotes

- 1 James C. Scott, *Seeing Like a State: How Certain Schemes to Improve the Human Condition Have Failed* (Yale University Press, 1998).
- 2 Theodore Trefon, "Population Census DRC," *Congo Masquerade* (blog), 26 May 2012, <http://congomasquerade.blogspot.com/2012/05/population-census-drc.html>.
- 3 "Population, Total," The World Bank, accessed 18 January 2020. https://data.worldbank.org/indicator/SP.POP.TOTL?most_recent_value_desc=true.
- 4 Max Bearak, "Félix Tshisekedi's improbable inauguration leaves Congo in a confused daze," *Washington Post*, 24 January 2019. https://www.washingtonpost.com/world/africa/felix-tshisekedis-improbable-inauguration-leaves-congo-in-a-confused-daze/2019/01/24/36f51a84-1cf1-11e9-a759-2b8541bbbe20_story.html.
- 5 "Infrastructures," RD Congo Agence Nationale Pour la Promotion des Investissements, 31 January 2016, <https://www.investindrc.cd/fr/secteurs/infrastructure>.
- 6 Vivien Foster and Daniel Alberto Benitez, *The Democratic Republic of Congo's Infrastructure: A Continental Perspective*, World Bank, March 2010.
- 7 *Democratic Republic of Congo*, PWC, accessed 27 November 2019 [PDF file], <https://www.pwc.com/gx/en/transportation-logistics/publications/africa-infrastructure-investment/assets/drc.pdf>.
- 8 Trefon, "Population Census DRC."
- 9 Trefon, "Population Census DRC."
- 10 Donatien Beguy, "Poor data affects Africa's ability to make the right policy decisions." *The Conversation*, 18 August 2016, <http://theconversation.com/poor-data-affects-africas-ability-to-make-the-right-policy-decisions-64064>.
- 11 Jim Tankersley and Emily Baumgaertner, "Here's Why an Accurate Census Count Is So Important," *New York Times*, 27 March 2018, <https://www.nytimes.com/2018/03/27/us/politics/census-citizenship-question.html>.
- 12 Solmaz Barazesh, "Probing Question: Why is the census important?" *Penn State News*, 27 July 2009, <https://news.psu.edu/story/141197/2009/07/27/research/probing-question-why-census-important>.
- 13 Jonathan Kalan, "Connecting the 'last mile' of market research in Africa," BBC, 1 November 2013, <https://www.bbc.com/news/business-24763609>.
- 14 Kayemba Mvula, "Could a census unlock growth in the DRC?" *Research World*, 19 November 2019, <https://www.researchworld.com/could-a-census-unlock-growth-in-the-drc/>.
- 15 Trefon, "Population Census DRC."
- 16 "Kenya Census: Why counting people can be controversial," BBC News, 11 November 2019, <https://www.bbc.com/news/world-africa-50322782>.
- 17 Shantayanan Devarajan, "Africa's Statistical Tragedy," *The Review of Income and Wealth*, Series 59, Special Issue, (October 2013), S10.

The Climate Change Challenge that No One Is Talking About: Its Impact on Africa

By Simon DeBere

Simon is a joint MPA-ID and MBA student at the Harvard Kennedy School and Harvard Business School. Prior to graduate school, he spent three years working for an agricultural social enterprise in East Africa, One Acre Fund. The organization focuses on improving the agricultural yield and incomes of more than a million small-holder farmers across the continent, and during his time there, Simon was able to see first-hand how vulnerable these families were to the effects of climate change. He continues to be interested in challenges related to the African continent and in particular how narratives and the global economic structure continues to marginalize African issues and perpetuate rich world dominance.



As voices for action against climate change grow around Europe and North America through movements such as Extinction Rebellion, the recent Global Climate Strike, and discussion of a Green New Deal, a fundamental piece of the story remains largely absent from the discussion: that the severe

challenges from climate change will be most severely felt in Africa, which will soon be home to over one in three people on Earth.¹ This reveals the continued ignorance and apathy with which much of the rich world views the continent. Climate change will be the third great wave—following slavery

and colonialism—of under-acknowledged exploitation of the continent by the rich world. The rich world would do much better by acknowledging that the battle to address climate change must be waged first and foremost in defense of Africa.

Climate Change Will Disproportionately Affect Africa, Despite Contributing Nothing to Its Causes

Nearly all the effects of climate change will be in poor countries. Empirical work finds that higher temperatures have substantial negative effects on economic growth in poor countries but no effect on growth in rich countries. A one-degree Celsius rise in temperatures is associated with a decline in economic growth of 1.9 percentage points in Sub-Saharan African countries—affecting agriculture, industrial output, and political stability. (This compares to smaller, but still negative, effects of 0.9 percentage points in countries that are poor but not in Sub-Saharan Africa.) Furthermore, temperatures are projected to rise faster in Africa than in the rest of the world. The Intergovernmental Panel on Climate Change projects an increase of 4 degrees Celsius by the end of the century vs. the world average of 2.9 degrees Celsius.

Africa is particularly vulnerable to the effects of climate change. High dependence on agriculture, where yields are at risk from temperature and rainfall changes, will damage food security and therefore the livelihoods of 70 percent of the population. Furthermore, compared to rich countries, low incomes and state capabilities in Africa means

that the continent has limited capacity to respond to these challenges. This is even more relevant, given that between now and the end of the century, Africa's population is projected to triple, increasing by nearly 3 billion people, accounting for 95 percent of all population growth.²

Yet Africa has contributed almost nothing to the causes of climate change. Currently, Africa contributes just 4 percent of global CO₂ emissions compared to 25 percent for North America and Europe. Furthermore, Europe and North America are responsible for 50 percent of all historical cumulative emissions compared to just 3 percent from Africa.³ Rich countries have driven emissions and benefited from them, whereas Africa has been unable to benefit from them but will now have to bear most of the consequences.

Discussion of Africa Is Absent for the Climate Change Debate

In recent months, politicians and activists have made significant progress in bringing the issues of climate change to the forefront of public discourse in Europe and North America. While framed as progressive movements, the discourse reveals the typical blind spots and biases of the rich world towards Africa. Activists have favored framing the issues as affecting all of humanity or around what will be the domestic challenges in rich countries. Although this successful activism has benefits, it continues to mask the severity of the issues faced by the most vulnerable around the world and so potentially limits the actions of the rich world.

Greta Thunberg, the 16-year-old

Swedish climate change activist, told world leaders “You have stolen my dreams,” regarding their lack of action towards climate change. Although her work is laudable, the media’s focus on her overlooks those who will be most affected. It will be subsistence farmers across the African continent who will be forced to adapt, with their already limited means, to a changing climate as they try to extract a living from their increasingly limited fertile land. It will not be the citizens of Sweden, whose wealth and economic structure will insulate them from climate change’s worst effects.

It’s Time to Acknowledge the Dire Climate Change Challenges for Africa

A climate change narrative that acknowledges Africa does justice to the reality and provides a stronger, clearer rationale for significant and urgent action. Without such a narrative, actions will invariably always fall short. In doing this, the rich world must be careful not to perpetuate an incorrect narrative of helplessness and pity towards the continent. Instead, it’s important to recognize firstly that Africa’s challenges regarding climate change have not been caused by African actions; and secondly, the interconnected global ecosystem means that many of the ways to limit the consequences from climate change cannot come from Africa. It is therefore the responsibility of the rich world to act to affect change at a scale that only it can.

Some may say that in order to drive the necessary policy changes in the rich world, the arguments must appeal to rich world voters and policymakers and even play into their existing

biases. But only by fully understanding how severe the consequences will be for the continent can we galvanize the political will for immediate and substantive action. While the direct changes from climate change to daily life in the rich world will be relatively small—providing limited incentive for change—the potentially catastrophic damage to the lives of billions of Africans is precisely the incentive required for action.

So, What Does This Mean for You?

- *Arm yourself with an understanding of how climate change will affect Africa.* If you care about climate change, then your primary concern is Africa, and you must understand how the continent is at risk.
- *Use this understanding to ensure Africa is included in climate change debates.* We must push for Africa to be part of the climate change debate—including through African voices. Therefore, when you find yourselves discussing climate change, ensure Africa is part of the discussion.
- *Advocate for more significant action on climate change on behalf of Africa.* We must do more to address climate change and faster. Share your understanding of the potentially extreme—and unjust—effects of climate change in Africa to galvanize support for climate action among your peers.

Endnotes

- 1 Melissa Dell, Benjamin F. Jones, and Benjamin A. Olken, "Temperature Shocks and Economic Growth: Evidence from the Last Half Century," *American Economic Journal: Macroeconomics* 2012, 4(3): 66–95.
- 2 "World Population Prospects 2019," United Nations Department of Economic and Social Affairs Population Dynamics, last updated 12 February 2020, <https://population.un.org/wpp/>.
- 3 Hannah Ritchie, "Who has contributed most to global CO2 emissions?" Our World in Data, 1 October 2019, <https://ourworldindata.org/contributed-most-global-co2>.

Tax Base Erosion: A Cautionary Tale of the DRC

By Laure Gnassou, Experienced Economist

Laure is an experienced economist, with a particular interest in African economies, notably the Democratic Republic of Congo. Prior to her experience with the United Nations (UN), Laure worked with the European Parliament, the European Commission, and the Central Bank of Finland. She holds a “Diplôme d’Etudes Approfondies” (Pre-PhD) in international economics from Grenoble University, France. The views and opinions expressed in this article are solely those of the author. Email: laure.gnassou@hotmail.com; Twitter: laure_app.



Acknowledgement: The paper results from a presentation at the Tax Justice Network annual conference on Paradise Lost (Inequality and Tax Injustice) in Lima (Peru) from 13–14 June 2018. A revised version of the paper was presented at the Effective State Inclusive and Development (ESID) conference in Manchester (UK) from 9–11 September 2019.

Abstract

Referring to the Addis Ababa Action Agenda of July 2015, the domestic revenue mobilization through taxation is a top priority to achieve the 2030 agenda for sustainable development. The Democratic Republic of Congo (DRC), a major resource-rich country, has faced difficulties in ensuring the sound delivery of public services. It is marred by inequality and has regularly experienced humanitarian crises. This paper investigates the root causes of tax base erosion in the fragile African state.

First, the paper examines the critical impact of multinational enterprises (MNEs) on the DRC’s tax base. Often by obtaining tax incentives in exchange for foreign direct investment inflows to develop the extractive industries, MNEs apply tax avoidance practices and proceed to transfer pricing to reduce tax payments. This tax

leakage has fomented the erosion of the country’s limited tax base.

Second, the paper highlights that in March 2018, the country kicked off a controversial attempt to reform its mining legislation during a severe political crisis. The rise in taxation of minerals aimed to protect the country’s tax base.

Third, the paper stresses that international cooperation in the area of tax matters is critical for restoring the tax base and improving domestic tax capacity. Since January 2019, a change in political leadership has offered a new opportunity for reconnecting with donors on tax matters. This could contribute to ameliorating the efficiency of the country’s tax administration and modernizing its tax system.

Introduction

The Democratic Republic of Congo (DRC) is a major resource-rich country

in Africa that remains exposed to critical political, security, economic, and financial challenges. The rise in taxation of the extractive sector is one of the key challenges that the country recently tackled to better contribute to its sustainable economic development.

This paper stresses that multinational enterprises (MNEs) have often obtained tax and customs incentives in exchange for foreign direct investment (FDI) inflows to develop the Congolese extractive sector. They have exploited loopholes of both international and national legislations, through tax avoidance practices, to reduce tax payments. In 2016 and 2017, the Panama Papers and the Paradise Papers uncovered imbrolios of deals related to the Congolese extractive sector. Additionally, they unveiled financial secrecy surrounding the Congolese elites—overall pointing out that insufficient governance of the sector, combined with tax dodging, resulted in an erosion of a tax base in the fragile state.

Thus, this paper highlights that the DRC attempted to reform the legislation on the extractive industries in view of protecting its tax base. In March 2018, mining policy reform aimed to improve the sector's governance and mobilize more domestic revenue. This has exacerbated tensions between the state and MNEs over the management of mining wealth. MNEs strongly contested the increasing fiscal pressure and the withdrawal of a ten-year stability clause.

Finally, this paper explores opportunities and motives for broadening and deepening cooperation in tax matters between the DRC and donors. The challenge consists in strengthening

the country's fiscal pace. In this regard, additional structural reforms are required to promote a sustainable tax base.

1. Tax Base in Jeopardy in the DRC, a Major Resource-Rich Country in Sub-Saharan Africa

Despite vast mineral deposits, the mining sector's contribution to fiscal revenues was limited over the past decade. This partly results from a strategy consisting of a controversial race to the bottom on taxes aimed at attracting foreign capital flows. Moreover, MNEs set up practices that contributed to eroding the country's tax base.

1.1. The Attractiveness of the Congolese Extractive Sector under Review

In the early 2000s, the country implemented structural reform to revitalize the extractive sector, particularly industrial mining activities. Attracting private capital flows in the extractive sector by granting tax incentives became a priority.

1.1.1. The Extractive Sector Profile in the DRC

As of the mid-1980s, the country's economy underperformed mainly due to political instability, the mismanagement of the state-owned enterprises (SOEs),ⁱ and a sharp fall in commodities prices. The mining industry collapsed. From 1985 to 2001, the mining sector's

ⁱ From 1973 to 1975, the Mobutu regime experimented with the Zaïreanization of the economy, which mainly consisted in the nationalization of the main companies, including the Générale des Carrières et des Mines, a base metal company in the ex-Katanga province, and the Office des Mines d'Or de Kilo Moto, a gold mining company in the ex-Province Orientale.

share in GDP declined from 24.6 percent to 7.3 percent, according to the International Monetary Fund (IMF).¹

In the 2000s, the mining policy reform contributed to relaunching the industrial mining sector. First, junior companies partnered with SOEs detaining public mining assets. They were progressively replaced by MNEs, especially in the copper-cobalt belt, after the democratic election of then president Kabila in 2006. Since then, MNE investments kept driving production of base metals, although GECAMINES SA (GMC) owns public mining assets in the copper-cobalt belt (see Figure 1).

in GDP accounted for 19 percent. The same year, mining revenues for the central government were estimated at USD 829 million, only representing 16 percent of public revenues.³ A year later, tax collecting agenciesⁱⁱ collected USD 1.17 billion, representing 82.2 percent of tax revenues from the mining sector, notably the corporate income tax (CIT).⁴ As a result, the DRC is more exposed to base erosion and profit shifting (BEPS) owing to the extreme reliance on corporate income tax.

1.1.2. Tax and Customs Incentives vs. a Surge in FDI Inflows to the DRC as of 2002

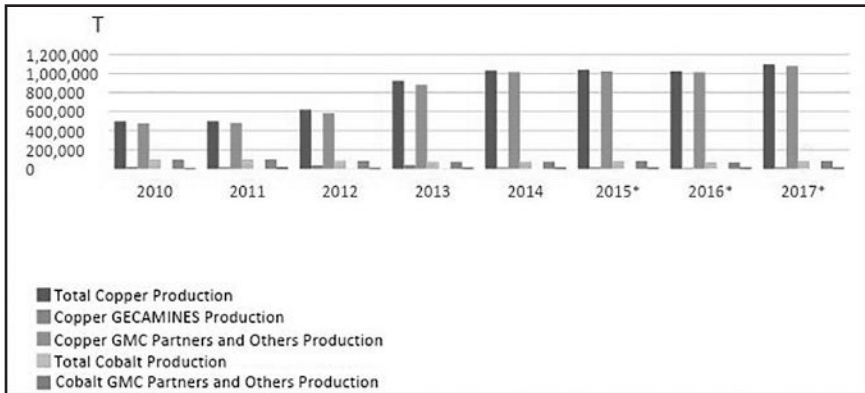


Image Source: Author, based on Banque Centrale du Congo, *Condensé Hebdomadaire d'Informations Statistiques*, N°11 au 16 mars, 2018 http://www.bcc.cd/downloads/pub/condinfostat/Cond_Info_Stat_11_2018.pdf

Note: (*): Temporary data.

Referring to the Central Bank of Congo (BCC), in 2016, the extractive sector accounted for USD 9,733.7 million, or 97.6 percent of the country's total official export value.² The country's economy mainly depends on the export of a few minerals, with copper and cobalt corresponding to 56.2 percent and 20.8 percent, respectively, of the total export value in 2016.

In 2014, the mining sector's share

As of 2002, the DRC set up a modern legal and regulatory framework with the World Bank's assistance. The framework comprised a law, No. 007/2002 of 11 July 2002, on mining code⁵ and a regulation, No. 038/2003 of 26 March 2003,⁶ replacing law No.

ii The tax-collecting agencies are as follows: (i) the Direction Générale des Douanes et Accises; the Direction Générale des Impôts; and (iii) the Direction Générale des Recettes Administratives, Judiciaires, Domaniales et de Participation.

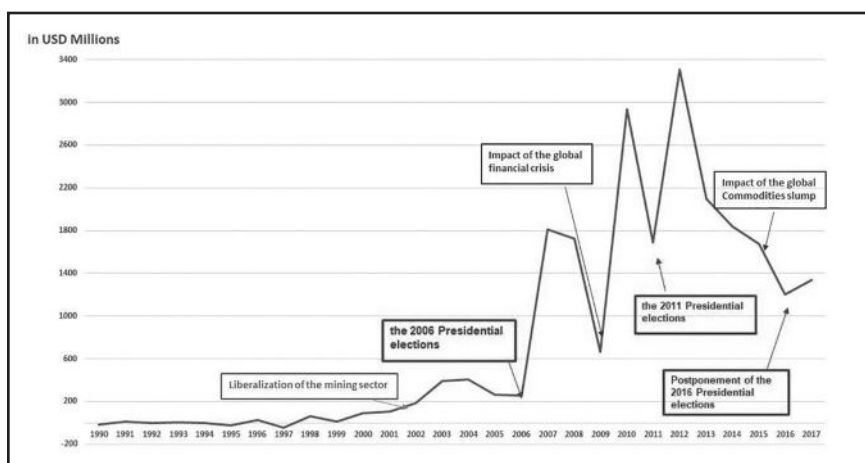
81-013 of 2 April 1981, on mines and hydrocarbons. The 2002 mining code included an attractive fiscal, customs, and exchange regime, as well as a stability clause of ten years (a legal guarantee deriving from mining deals negotiated under the previous law⁷). According to the IMF, the code was “more generous compared to peer countries,”⁸ such as Chile, Peru and Australia.

Furthermore, MNEs obtained tax and customs incentives under the 2002 investment code,⁹ creating an enabling environment for securing national and outbound investments. These tax incentives, including tax holidays, are temporarily granted to further attract FDI inflows to the DRC. In practice, they are often maintained, given corruption and political interferenceⁱⁱⁱ in tax policy. Tax and customs incentives

become inefficient by generating important tax losses.¹⁰ They participate in a tax base’s erosion showing a disconnection between tax policy and tax administration.

Overall, a cumulative amount of FDI inflows reached USD 20,467.2 million from 2002 to 2016 (see Figure 2). The MNEs, particularly Chinese mining companies, have massively invested in the copper-cobalt belt, the ex-Katanga province.¹¹ In 2017, FDI inflows stood at USD 1,340.2 million. Given its strategic commodities (copper, cobalt, and lithium), the DRC is at the forefront of green technologies, notably the electrification of transportation. In the coming years, the country might become a new land of opportunity for investors in the quest to develop cobalt and lithium projects. This might mobilize further FDI inflows since President Tshisekedi’s elections in December 2018.

iii Concerning the Sino-Congolese agreement on mining and infrastructure of 2007, the Chinese SOEs obtained tax exemptions.



Source: Revised figure extracted from author, “The End of the Commodity Super-Cycle and its Implications for the DRC in Crisis,” *Harvard Africa Policy Journal*, volume XII (2016-2017): 77-88, <http://apj.hkspublications.org/wp-content/uploads/sites/13/APJ-2017-RP.pdf> and “The World Investment Report – Investment and the Digital Economy,” *United Nations Conference on Trade and Development* 6 June 2018 http://unctad.org/en/PublicationsLibrary/wir2018_en.pdf

1.2. Tax Avoidance, Tax Evasion and Other Financial Practices Pressuring a Narrow Tax Base in the DRC

In 2018, the state budget was only estimated at USD 5,709,165,104.¹² It usually relies on donor assistance, given that there is an insufficient mobilization of public revenues. The narrow tax base also reflects the behaviour of taxpayers, who set up strategies to dodge taxes and/or evade funds.

1.2.1. Assessing Tax Avoidance in the DRC

Although, in 2015, a finance law including provisions on transfer pricing^{iv} was introduced in the country, shortcomings are observed in its implementation. MNEs have exploited loopholes to reduce tax payments. Through tax planning practices, they artificially shift profits to a low or non-tax jurisdiction or tax haven. They have undertaken tax avoidance practices knowing that most MNEs are registered in tax havens,¹³ while they set-up subsidiaries in the DRC. Therefore, transfer mispricing is the key driver for BEPS, which tends to narrow the country's tax base.

1.2.2. Other Financial Practices: Mergers and Acquisitions of the Congolese Mining Assets Outside the DRC Jurisdiction

Most Mergers and Acquisitions (M&A) related to the Congolese mining assets occurred outside the country,

mainly in tax havens. For instance, from 2010 to 2012, “the country lost at least USD 1.36 billion in revenues from the under-pricing of mining assets that were sold to offshore companies.”¹⁴

As a second example, on 9 May 2016, Freeport-McMoRan Inc. sold its 56 percent stake in Tenke Fungurume Mining (TFM) Holdings Ltd^v to China Molybdenum Co. Ltd. (CMOC) for a total amount of USD USD 2.65 billion.¹⁵ Lundin Mining detained 24 percent unity interest in TFM, while GECAMINES SA (GMC) continued to hold a 20 percent interest in TFM. The Congolese authorities were not informed about the deal, and they rejected the mining deal's validity. The government did not receive tax revenue, as the purchase of the Congolese mining rights was done in a jurisdiction outside of the country.¹⁶ On 27 October 2016, the government agreed to the sale of TFM by CMOC. In February 2017, GMC finally obtained financial compensation amounting to USD 100 thousand, in order to drop its legal complaints against Freeport-McMoran and Lundin. Overall, in 2017, CMOC controlled 15 percent of the cobalt market through its latest overseas mining acquisition in the DRC.

The narrow tax base also results from the mismanagement and endemic corruption. In 2017, Global Witness¹⁷ stressed that at least a USD 750 million payment by mining operators to GMC and tax-collecting agencies went missing from 2013 to 2015. In response, on 28 November 2018,

iv The 2015 finance law including provisions on transfer pricing was based on the “arm's length” principle. For further details, please refer to “DR Congo Highlights 2015,” Deloitte, last modified 10 February 2020, <https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-drconghighlights-2015.pdf>.

v TFM Holdings Ltd is registered in Bermuda. Since November 2016, CMOC acquired 100 percent of TFM Holding Ltd.

GMC released a detailed report dismissing the allegations.¹⁸

1.2.3. Tax Evasion

Concerning illicit financial flows (IFFs), Gabriel Zucman estimated that, in 2014, Africa accounted for 30 per cent of offshore tax evasion, a total of USD 15 billion in tax revenue loss.¹⁹ In the DRC, MNEs and individuals are engaged in tax evasion. By doing so, they participate in boosting the share of financial wealth held offshore. The recent publication of the Panama Papers²⁰ and the Paradise Papers²¹ revealed secrecy surrounding financial transactions carried out by the Congolese elite and MNEs.

2. Attempts at Amending the Mining Policy in the DRC

The government recently engaged in a reform of the legal framework on extractive industries to improve governance. It focused on restoring its ownership with regard to the management of mining wealth.

2.1. The Glimpse of Resource Nationalism: Learning from the Revised Mining Code

Recently, a trend of resource nationalism has been observed in Sub-Saharan Africa,^{vi} especially Zambia, Tanzania, and Mali. Concerning the DRC, for years, the IMF encouraged the Congolese authorities to amend their mining policy by redefining an adequate fiscal, customs and exchange

vi More attention was given to the issue of resource nationalism in Africa. For instance, on 12 June 2019, a panel was dedicated to "Resource Nationalism in Southern Africa: Challenges and Opportunities" at the 8th European Conference on African Studies which was hosted by the University of Edinburgh's Centre of African Studies.

package to raise domestic revenue mobilization (DRM)²² in a country that was exposed to tax dodging. The new mining law²³ was promulgated on 9 March 2018. It was completed through a revised mining regulation²⁴ on 8 June 2018.

2.1.1. Long Overdue Mining Policy Review

After a review of mining contracts,^{vii} in 2012, the government started to reform its mining policy with the World Bank's support. On 17 October 2013, the ministry of mines issued the first draft of the mining law,^{viii} which was sent to the parliament in mid-March 2015. However, in 2016, the government halted the review of the 2002 mining code, owing to a commodity markets slump²⁵ and the strong opposition of mining operators. Finally, the national assembly and the senate adopted the revised mining code, on 8 December 2017, and 22 January 2018, respectively.

2.1.2. Focus on the Fiscal, Customs, and Exchange Package of the Revised Mining Code

Through the 2018 mining code, the Congolese authorities embarked on an aggressive strategy to increase the mining sector's contribution to public finance (see Table 1).

vii In 2005, the Lutundula report (a parliamentary report) provided major insights related to Leonine contracts. Although it was never discussed at the parliament, given the sensitive nature of these contracts, it provided grounds for the ministerial decision of April 2007 pertaining to the review of 61 mining contracts from 11 June 2007 to 22 October 2010.

viii The international and national law firms (Duncan & Allen and Cabinet Mukendi Wafwana & Associates) were initially recruited, thanks to the World Bank project "Projet d'Appui au Secteur Minier en RD Congo." They provided legal assistance to the government. After drafting the 2002 mining code, they were involved in revising the said code.

Table 1. The Revised Mining Code at-a-Glance

KEY FEATURES	ARTICLES OF THE REVISED MINING CODE	COMMENTS
An increase in the rate of royalties on main minerals	Art. 241	For non-ferrous metals and/ or base metals: from 2% to 3.5%. For precious metals: from 2.5% to 3.5%. For precious stones: from 4% to 6%. For strategic substances: a 10% super-profit. The government plans to declare cobalt, coltan, lithium, and other minerals as strategic substances.
An introduction of a 50% profit-windfall tax, the so-called super-profits	Art. 251 bis	The tax will be applicable when commodity prices are 25% superior to feasibility study prices.
A reduction of a stability clause from ten years to five years	Art. 276 Art. 342 bis	The elimination of the 10-year stability clause has increased legal uncertainty in the country.
The CIT	Art. 247	The CIT remains unchanged at the rate of 30%.
The transfer of mining rights between affiliates	Art. 253	The transfer must take place under the arm's length principle.
Changes in the shareholding of any mining company	Art. 276 bis Art. 276 ter	M&A involving Congolese mining assets require the state's approval.
A rise in the state's free share in mining projects from 5% to 10%	Art. 71	The state opted for rising its control over mining assets.
A fiscal decentralization and mining sector	Art. 242	The mining license fees of any mining company will be redistributed as follows: (i) 50% to the central government; (ii) 25% to the province in which the project is executed; and (iii) 15% to the territorial entity.

Addressing the recurrent shortage of foreign exchange	Art. 269	MNEs are requested to repatriate 60% export revenues.
	Art. 309 bis	In case of noncompliance, MNEs are exposed to penalties estimated at 5% of the total non-repatriated revenues. Previously, mining operators had to repatriate 40% of export revenues. ^{ix}
Tackling the dedollarization process	Art. 263	Mining operators are encouraged to convert funds in national currencies to participate in preventing a crisis of confidence in the Congolese franc. ²⁶

Source: The author on a basis of *Droit Afrique*, (2018), *Loi N°2002 07 du 11 juillet 2002 portant Code minier, modifiée par la loi N°2018-01*, pp. 1-138, <http://www.droit-afrique.com/uploads/RDC-Code-2002-minier-MAJ-2018.pdf>

ix On 17 June 2017, the central bank insisted on the measure's enforcement.

The increased fiscal pressures on mining operators could reduce the profitability of mining projects.

Moreover, the revised mining code comprised other amendments covering key areas, such as the Congolese Entrepreneurship,^x the local content,^{xi} local communities,^{xii} the environmental issue,^{xiii} and the fund for future generations.^{xiv} Overall these inno-

ventions aimed to generate a positive impact on the country's economy.

Nonetheless, Global Witness does not consider that the revised code will contribute to increasing transparency in the mining sector.²⁷

2.2. Resource Nationalism and Growing Tensions with Mining Companies

Resource nationalism implies a drastic change in dynamics between the state and MNEs. Therefore, taxation of minerals and a clause of stability gradually became a contentious issue.

2.2.1. Attempts at Mitigating Tensions between the State and a Cartel of Mining Companies in the DRC

On 8 February 2018, mining giants expressed to then president Kabila their concerns regarding the fiscal aspects of the revised mining code and the legal guarantee of stability. On 7 March 2018, the former president met with the main executives of these

x Art. 71 bis of the 2018 mining code stresses that the Congolese subsidiaries of MNEs must include Congolese shareholders representing at least 10 percent of the total shareholders of any mining project.

xi Art. 273 of the 2018 mining code points out that "the DRC First" strategy emphasises giving preference to national citizens in view of developing local industries and sub-contractors.

xii Art. 285 ter of the 2018 mining code indicates that a new relationship between local communities and the mining operators is set up in terms of the management of mining wealth. Mining companies are fully responsible in cases of environmental concerns. Art. 285 octies of the said code adds that 0.3 percent of mining companies' revenues will be assigned to the development of local communities' projects to ameliorate the population's living conditions.

xiii Art. 1 ter of the 2018 mining code indicates that the Congolese environment agency is responsible for assessing and approving the socioenvironmental aspects of any mining project.

xiv Art. 242 of the 2018 mining code highlights that 10 percent of royalty payments must be allocated to the fund for future generations.

companies.^{xv} Despite the said meeting,²⁸ on 9 March 2018, the revised mining code was promulgated in replacement of the 2002 mining code.

On 21 March 2018, Mr. Kabwelulu, then minister of mines, started discussions on the revision of the 2003 mining regulation during a tripartite workshop. Nonetheless, the private sector was divided. A new independent group emerged, known as the “Initiative pour la Promotion de Industrie Minière” (IPM), gathering Randgold Resources, AngloGoldAshanti, Glencore Plc, Ivanhoe Mines, Gold Mountain International, Zijin Mining Group, MMG, and CMOC. The IPM withdrew from the Chamber of Commerce, the so-called “Fédération des Entreprises du Congo” (FEC) on 15 March 2018. It considered that the Chamber was not defending its interests enough.²⁹ On 23 March 2018, it attended a separate meeting with then minister of mines Kabwelulu, who disregarded its proposals.³⁰ On 29 March 2018, the lobby of mining giants issued a statement³¹ stressing that it accepted 76 percent of the articles in the 2018 mining code. On 8 June 2018, the mining regulation, however, entered effect, without addressing the IPM’s concerns.^{xvi} Given the context, the IPM might seek arbitration. Civil servants will play a critical role in implementing the revised mining legal framework to prevent any litigation by MNEs.³²

2.2.2. The Audit of GMC Contracts, a

xv Randgold, Glencore Plc, China Molybdenum Co, Ltd (CMOC), MMG (PTY) Ltd, Ivanhoe Mines, Gold Mountain International, Zijin Mining Group and Cristal River Global Limit.

xvi Nonetheless, it proposed to maintain a ten-year stability clause and to replace a 50 percent profit-windfall tax by a sliding scale of royalty rates to main commodities prices, in particular cobalt.

Strong Sign of Resource Nationalism

On 14 June 2018, Mr. Yuma, GMC head, announced a review of the company’s mining contracts to raise the state’s revenues. Since then, no update has been made public on the ongoing renegotiation of GMC’s joint ventures. The audit could be viewed as a strong sign of resource nationalism, which could exacerbate tensions between the state and the industrial mining sector.

Finally, the business climate is likely to further deteriorate, knowing that the DRC is already considered to be a high-risk jurisdiction. The country is ranked 183 out of 190 in the 2020 World Bank’s Doing Business report.³³

3. The DRC in Fringe of the International Cooperation in Tax Matters

Since 2001, the country has reconnected with the donor community, which has aided on political, security, economic, and humanitarian issues. Nonetheless, international support on tax matters is rather limited. After the release of the Panama Papers and the Paradise Papers in 2016 and 2017, respectively, it became clear that the DRC could benefit from a range of technical assistance to raise domestic mobilization efforts, which is critical to achieving the UN 2030 agenda for sustainable development, including the 17 sustainable developments goals (SDGs).

3.1. A Rebuilding of Fiscal Institutions (Tax and Customs Administrations) at the National and Provincial Level

Referring to the Addis Ababa Action Agenda, taxation plays a key role in financing the implementation of SDGs. In this regard, developing countries are urged to implement taxes

more effectively. Beyond changes in the taxation of minerals, the DRC has engaged structural reforms mainly focused on increasing domestic revenue and strengthening public financial management to reduce aid dependency. In 2009, the government adopted a plan to enhance the efficiency of revenue collection. It already intended to improve DRM.³⁴

Firstly, strengthening the tax administrations' capacities³⁵ is required to ameliorate transparency in managing the tax system. It will also address the limited performance of revenue-collecting agencies, which are poorly staffed and ill-equipped. It also will ensure tax compliance. Secondly, the broadening of the tax base mainly implies modernization of its tax system by: (i) rationalizing tax exemptions and (ii) eliminating a set of duties and taxes. Thirdly, the

economic diversification away from the extractive sector, a gradual formalization of the informal economy and a taxation of the digital economy will contribute to enlarging the taxpayers' database. This is imperative to ensuring a sustainable tax base.

Over the years, the IMF has supported the DRC through technical assistance. In addition, the World Bank and other donors have provided their support, including the Public Financial Management and Accountability Project.³⁶ In 2016, the DRC joined the BEPS project. Hence, it could adhere to the African Tax Administration Forum and other multi-stakeholder initiatives to tackle harmful practices, including tax avoidance and tax evasion. This will contribute to upgrading the country's tax system and establish an official tax dialogue with other countries (see Table 3).

Table 3. An Overview of the International Cooperation in Tax Matters

DONORS ASSISTANCE	INITIATIVE	COMMENT
1. Building National Tax Capacity 1. Building National Tax Capacity	The Platform for Collaboration on Tax (PCT) ³⁷	In April 2016, the UN, IMF, the World Bank, and the Organization for Economic Co-operation and Development (OECD) set up the PCT to reinforce capacity building support on tax matters in developing countries. The main activities are: (i) development of toolkits; (ii) guidance to support the implementation of BEPS measures; and (iii) tackling ill-conceived tax incentives.
	The OECD/G20 BEPS Project	Since July 2013, the OECD has been involved in addressing challenges related to BEPS. The BEPS project includes more than 100 countries and jurisdictions. Its objectives consist of: (i) addressing tax avoidance; (ii) guaranteeing a more transparent tax environment; and (iii) boosting the coherence of international tax rules.

1. Building National Tax Capacity	The Addis Tax Initiative (ATI).	In 2015, the UK launched the ATI, which gathers 39 countries. Donors intend on doubling their support of tax reform in developing countries by 2020. The ATI's purpose is to tackle tax avoidance, as well as domestic and cross-border evasion. In return, developing countries must engage tax reforms to ameliorate the transparency, efficiency, and effectiveness of their tax systems.
2. Building National Audit Capacity	The Tax Inspection Without Border (TIWB)	On 13 July 2015, the OECD and the United Nations Development Program set up the TIWB at the third finance for development conference in Addis Ababa, Ethiopia. The joint initiative aims to provide tax audit assistance to developing countries and improve compliance with national tax laws by taxpayers, especially MNEs. It contributes to increasing DRM by carrying out more effective tax audits.

Source: The Author.

3.2. Fighting against the Illicit Financial Flows (IFFs) in the DRC Lost in the Panama and Paradise Papers

Since the Mobutu regime, the scourge of corruption has hampered the country's economic development.³⁸ The DRC ranked 168th out of 180 countries, according to Transparency International's Corruption Perceptions Index 2019.³⁹ In spite of the recent release of the Panama Papers and the Paradise Papers, so far, the Congolese authorities^{xvii} have not taken any legal action towards the individuals and companies cited in these papers.

However, the United States has imposed individual sanctions targeting two prominent persons, Mr. Gertler and Mr. Pieter Deboutte, with

robust political and business ties with then president Kabila. On 20 December 2017, US President Trump signed Executive Order 13818, in line with the 2016 Global Magnitsky Human Rights Accountability Act.⁴⁰ The order put the said persons on the list of the US Office of Foreign Assets Control⁴¹ (OFAC) due to corruption and human rights abuses. Gertler's business empire^{xviii} covers mining, oil, transport, and agribusiness sectors. The executive order strictly prohibited any individual or company from engaging in transactions with persons under sanctions. Most MNEs distanced themselves from Gertler's empire,⁴² except Glencore Plc,

xvii Although the country became a member of the UN Convention against Corruption in 2010, it could also join other anti-corruption programmes.

xviii On June 15, 2018, the OFAC sanctioned 14 of his companies. See US Department of Treasury, Global Magnitsky Designations and Designation Update, Specially Designated Nationals List Update, (2018), <https://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20180615.aspx>.

given financial commitments.⁴³ On 15 June 2018, Glencore resumed its royalty payments in euros to Mr. Gertler through a non-US financial institution to preserve its assets (Mutanda Mining Sarl and Kamoto Copper Co.)⁴⁴ in the copper-cobalt belt. On 15 March 2018, Global Witness expressed concerns regarding the capacity of the United States to monitor and enforce Executive Order 13818 under the 2016 Global Magnitsky Act pertaining to Mr. Gertler.⁴⁵

Altogether, the Congolese authorities could further investigate the Gertler case, but only if there is a strong political will for recovering capital outflow. In this regard, the exchange of information between countries is imperative, which is a prerequisite to tackle IFFs, especially tax evasion. The DRC should be part of a global cooperative effort in terms of tax transparency.^{xix} Yet, this option could be strengthened, as Gabriel Zucman recommends creating a global wealth registry⁴⁶ to fight financial opacity. Such a mechanism could allow the Congolese tax authority to track offshore assets held by the Congolese elite and uncover financial transactions concluded in tax havens involving the Congolese mining assets.

Conclusion and Policy

Recommendations

The country has reached a critical juncture. As its economy depends on primary commodities, it could benefit from the mining policy reform, which significantly amended taxation of minerals. The reform constituted

a momentum, despite tremendous pressures exerted by mining giants. It must be associated with other structural reforms for preventing tax base erosion. The country should further engage with other donors to expand and deepen cooperation in tax matters. It could better protect, then broaden, its tax base by strengthening its tax capacity. This is a prerequisite for improving DRM in view of ensuring the proper delivery of SDGs. The Congolese authorities could take ownership of sustainable economic development. This also requires engaging on the path to long-term peace and political stability; one of the key challenges to achieve in the DRC.

xix Two initiatives comprise the global forum on transparency and exchange of information for tax purposes and the multilateral convention on mutual administrative assistance in tax matters and tax transparency.

Endnotes

- 1 “Democratic Republic of the Congo: Selected Issues and Statistical Appendix,” IMF Country Report No. 05/373 (2005), 1–97.
- 2 « Rapport annuel 2016, » Banque Centrale du Congo, 1–372.
- 3 “Democratic Republic of the Congo: Selected Issues,” IMF Country Report No. 15/281 (2015), 1–55.
- 4 «Comité exécutif de l’initiative pour la transparence dans les industries extractives,» Rapport ITIE RDC (2015), 1–193.
- 5 «Loi N° 007/2002 du 11 juillet 2002 portant code minier,» Journal Officiel n° spécial du 15 juillet 2002, 1–137.
- 6 Décret N° 038/2003 du 26 mars 2003 portant règlement minier, Journal Officiel de la République Démocratique du Congo n° spécial du 1 avril 2003, 1–161.
- 7 Emery Mukendi Wafwana, “Impact of the amendment of the Legal Guarantee of Stability in respect of Existing Mining Projects in the DRC,” *JuriaAfrique*, 5 April 2018, <https://juriafricque.com/eng/2018/04/05/impact-of-the-amendment-of-the-legal-guarantee-of-stability-in-respect-of-existing-mining-projects-in-the-drc/>.
- 8 “Democratic Republic of the Congo: Selected Issues.”
- 9 «R.D. Congo: Code des investissements, Loi n°004 du 21 février 2002,» Droit Afrique (2002), 1–7.
- 10 Mike Moore, Wilson Prichard, and Odd-Helge Fjeldstad, *Taxing Africa: Coercion, Reform and Development* (London/New York: Zed Books, 2018), 1–216.
- 11 Laure Gnassou, “Rising Chinese Mining Overseas Assets in the Copper–Cobalt Belt of the DRC facing Political Instability” (paper presented at the International Society for the Study of Chinese Overseas Conference Nagasaki [Japan] 17–19 November 2017).
- 12 «République Démocratique du Congo: Loi de finance pour l’exercice 2018,» Droit et Finance, 24 décembre 2017, 1–44.
- 13 Eric Joyce, “List of Offshore Companies Dealing in DRC Assets” (2011), http://www.ericjoyce.co.uk/wp-content/uploads/2011/11/drc_shell_companies.pdf.
- 14 “Equity in Extractives, Stewarding Africa’s Natural Resources for All,” *Africa Progress Panel report* (2013), 1–120.
- 15 “CMOC to Acquire Freeport’s Indirect 56% Interest in Tenke Fungurume for US\$ 2.65 billion,” *Business Wire*, 9 May 2016, <https://www.businesswire.com/news/home/20160509005806/en/CMOC-Acquire-Freeport%E2%80%99s-Indirect-56-Interest-Tenke>.
- 16 Perinne Toledano, John Bush, and Jacky Mandelbaum, “Designing a Legal Regime to Capture Capital Gains Tax on Indirect Transfers of Mineral and Petroleum Rights: A Practical Guide,” the Columbia Center on Sustainable Investment and the International Senior Lawyers Project (2017), 1–41.
- 17 “Regime Cash Machine,” Global Witness report (2017), 1–40.
- 18 «La vérité sur les mensonges des ONG en République Démocratique du Congo,» Gecamines SA rapport de la conférence de presse du 28 novembre 2018, 1–61.
- 19 Gabriel Zucman, “Taxing across Borders: Tracking Personal Wealth and Corporate Profits,” *Journal of Economic Perspectives* 28, no. 4 (2014): 121–148.
- 20 “Panama Papers unravel DRC mining concession deals,” African Network of Centers for Investigative Reporting (2016), <https://panamapapers.investigativecenters.org/drc-copper-mining/>.
- 21 Will Fitzgibbon, “Paradise Papers Research Raises Questions Over Glencore’s \$440m Congo Discount,” International Consortium of Investigative Reporters, 14 December 2017, <https://www.icij.org/investigations/paradise-papers/paradise-papers-research-raises-questions-glencore-440m-congo-discount/>.
- 22 “Press Release: Statement by an IMF Staff Mission on the 2012 Article IV Consultation with the Democratic Republic of the Congo,” IMF Press Release No. 12/236, 25 June 2012, <http://www.imf.org/en/News/Articles/2015/09/14/01/149/pr12236>.
- 23 «République Démocratique du Congo: Loi n° 2002–07 du 11 juillet 2002 portant Code minier, modifiée par la loi n° 2018 01,» Droit Afrique (2018), 1–138.
- 24 «Décret n° 038/2003 du 26 mars 2003 portant règlement minier tel que modifié et complète par le décret N° 18/024 du 08 juin 2018 (Textes coordonnées), *Journal Officiel de la République Démocratique du Congo* n° spécial, 12 juin 2018, 1–583.
- 25 Laure Gnassou, “The End of the Commodity Super-Cycle and Its Implications for the DRC in Crisis,” *Harvard Africa Policy Journal*, volume XII (2016–2017 edition): 77–88.
- 26 Laure Gnassou, “Quintessence of Macroeconomic Uncertainty in the DRC,” *Harvard Africa Policy Journal*, 27 October 2018, <http://apj.hkspublications.org/quintessence-of-macroeconomic-uncertainty-in-the-dr-congo/>.
- 27 “New Democratic Republic of Congo mining law could leave the door open to corrupt deals,” Global Witness press release, 12 March 2018, <https://www.globalwitness.org/en/press-releases/new-democratic-republic-congo-mining-law-could-leave-door-open-corrupt-deals/>.
- 28 Willam Clowes, «Congo President Set to Approve Law Changes Despite Miners’ Pleas,» Bloomberg, 7 March 2018, updated 8 March 2018, <https://www.bloomberg.com/news/articles/2018-03-07/congolese-president-kabila-to-sign-controversial-mining-law>.
- 29 “Press Release: Mining industry ready for engagement with DRC government,” Bloomberg,

<https://www.bloomberg.com/press-releases/2018-03-15/mining-industry-ready-for-engagement-with-drc-government>.

30 “Update 2-Congo rejects mining industry proposal to soften new law,” Reuters, 23 March 2018, <https://www.reuters.com/article/congo-mining/update-2-congo-rejects-mining-industry-proposal-to-soften-new-law-idUSL8N1R54YS>.

31 “Mining industry submits code proposal to DRC govt,” *Mining Weekly*, 29 March 2018, <http://www.miningweekly.com/article/mining-industry-submits-mining-code-proposal-to-drc-govt-2018-03-29>.

32 Mukendi, “Legal Guarantee of Stability.”

33 *Doing Business 2020: Comparing Business Regulation in 190 Economies*, World Bank (2019).

34 “Democratic Republic of the Congo: Staff Report for the 2009 Article IV Consultation, Request for a Three-Year Arrangement Under the Poverty Reduction and Growth Facility, and Request for Additional Interim Assistance Under the Enhanced Initiative for Heavily Indebted Poor Countries,” IMF Country Report No. 10/88 (March 2010), 1–121.

35 “Revenue Mobilization in Developing Countries,” IMF, 8 March 2011, 1–85.

36 “DRC: Strengthening PFM and Accountability (P145747),” World Bank, 27 December 2016.

37 “Enhancing the Effectiveness of External Support in Building Tax Capacity in Developing Countries,” IMF, OECD, UN, and World Bank (2016), 1–52.

38 Muzong Kodi, “Anti-Corruption Challenges in Post-Election Democratic Republic of Congo: An Africa Programme Report” (Chatham House, 2007), 1–32.

39 “Corruption Perceptions Index 2019,” Transparency International (2020),.

40 “Executive Order 13818 of December 20, 2017: Blocking the Property of Persons Involved in Serious Human Rights Abuse or Corruption,” *Federal Register* 82, No. 246, Presidential Documents 26 December 2017, pp. 60839–60843.

41 “Issuance of Global Magnitsky Executive Order,” US Treasury Department Office of Foreign Assets Control, 20 December 2017.

42 “The Global Magnitsky Effect: How will U.S. sanctions against Israeli billionaire Dan Gertler affect the DR Congo’s extractive sector?” *Resource Matters* (2018), 1–20.

43 Henry Sanderson, “Glencore says it hasn’t paid royalties to Israeli businessman since US sanctions,” 21 February 2018, <https://www.ft.com/content/68e9d32e-16fb-11e8-9376-4a6390addb44>.

44 “Settlement of Dispute with Ventora and Africa Horizons,” Glencore, 15 June 2018, <http://www.glencore.com/media-and-insights/news/Settlement-of-dispute-with-Ventora-and-Africa-horizons>.

45 “Mining Giants Forced to Review Contracts with Sanctioned Israeli Billionaire,” *Global Wit-*

ness, 15 March 2018, <https://www.globalwitness.org/en/blog/mining-giants-forced-review-contracts-sanctioned-israeli-billionaire/>.

46 Gabriel Zucman, “How Corporations and the Wealthy Avoid Taxes (and How to Stop Them),” *New York Times*, 14 November 2017, https://www.nytimes.com/interactive/2017/11/10/opinion/gabriel-zucman-paradise-papers-tax-evasion.html?_r=1.

Why the Kenya-Somalia Maritime Dispute Is Far from Over, Regardless of the International Court of Justice Ruling

By Philip Onguny

*Philip Onguny is an assistant professor in the School of Conflict Studies at Saint Paul University in Ottawa, Canada. His research revolves around ethnopolitical violence in Sub-Saharan Africa, including the role of media in conflict transformation and peacebuilding. He is the co-editor of *Lutte contre le terrorisme en Afrique: Acte de bienveillance ou prétexte géostratégique?*, published by the University of Montreal Press.*



Abstract

This article focuses on the ongoing maritime boundary dispute between Kenya and Somalia. It argues that, regardless of the anticipated International Court of Justice's ruling in 2020, the decision will only formalize legal ownership of the disputed area rather than settling recurrent border disputes between the two states. This is because of the broader geopolitical factors that are shifting the security landscape in East Africa and the Horn. The article discusses some of the legal principles upon which the court's decision might be hinged, contending that winning the case on either side will not change much in terms of the growing regional security concerns. Withstanding the dynamics of this dispute and the changes in regional balance of power, the article does not pretend to offer exhaustive thoughts on the case, neither does it

offer solutions to that end. Rather, its ultimate objective is to generate academic and policy debates on whether regional arrangements would be the best course of action for these kinds of dispute as a means to prevent potential ripple effect in the continent.

Introduction

Territorial and boundary disputes are not a new phenomenon in Africa. The 1884-1885 Berlin Conference, for instance, "set out (among other things) the conditions under which territory might be acquired on the coast of Africa."¹ While the Conference may have served as a major landmark in Africa's territorial governance,² it also marked the beginning of border/boundary disputes on the continent, both terrestrial and maritime.³ In many cases, boundary claims stem from historical variations of border maps, territorial redrawing of the

newly formed states, and reconfiguration of rights and responsibilities⁴.

As such, one leading explanation for boundary disputes is that “borders were designed in European capitals at a time when Europeans had barely settled in Africa with little knowledge of the geography and ethnic composition of the areas whose borders were designing.”⁵ While colonial legacy may have had a profound impact on contemporary border/boundary conflicts in Africa, recent studies have shown how increased exploration of inland, offshore, and coastline natural resources influence the current patterns of border/boundary conflicts over time and space.⁶ Drawing upon country-specific cases, such studies seek to approve or disapprove dominant perspectives on natural resource conflicts, such as “resource curse,” “resource trap,” or “Dutch disease.”⁷

Pending these views, there is relatively little work done to understand the recent scramble to control sea spaces, island features, and waterways by African states. Yet, Africa’s regional security is increasingly threatened by disputes over transboundary natural resources.⁸ In writing about Africa’s disputes over watercourses and maritime borders, some scholars have observed that “unconsolidated borders arise from governments’ negligence in not setting up judicious institutions to cater for their territories, and this has turned out to be a good basis for external intrusion and a vital source of disputes between states.”⁹ Accordingly, the burgeoning boundary disputes in Africa seem to confirm this perspective. The River Nile “water wars” between Ethiopia, Sudan, and Egypt recently prompted by the construction

of the Grand Ethiopian Renaissance Dam (GERD) is one of such disputes. Arguably, Ethiopia is using its relative economic strength as a leverage to construct the dam without external support, while Sudan, which, until recently, had supported the construction of GERD for its own economic prospects, joined Egypt in questioning the downstream flow of Nile waters upon its completion in 2020.¹⁰ Since Egypt and Sudan have failed to thwart the construction of this mega-dam, the dispute has shifted focus and is now centered on the timeframe needed to fill it, with concerns over “water security” by the lower riparians since GERD is expected to be Africa’s biggest hydroelectric power plant.¹¹

Other ongoing disputes involving boundary delimitations, territorial sovereignty, and inconclusive treaties over transboundary natural resources in the continent are abundant.¹ They include, among others: the dispute between the DRC and Uganda over Rukwanzi Island in Lake Albert;¹² disagreements over Lake Nyasa’s boundary between Tanzania and Malawi;¹³ diplomatic tussles over the sovereignty of Hala’ib Triangle involving Sudan and Egypt;¹⁴ the dispute over Mbaníé, Cocotiers, and Congas Islands between Gabon and Equatorial Guinea;¹⁵ the boundary dispute over the Orange River between Namibia and South Africa; and disagreements between Botswana and Namibia over the use of Okavango river basin, which is testing the sustainability of treaties established to guide the use

i For a detailed discussion on maritime disputes in Africa, see Vreĵ, F. 2013. “Turning the Tide: Revisiting African Maritime Security.” *Journal of Military Studies* 41: 1–23.

of the disputed watercourse.¹⁶ These are some of the many disputes that are currently active and whose solutions remain uncertain or temporary. The maritime border dispute between Kenya and Somalia is therefore not atypical. In fact, the two countries are already embroiled in other border/boundary disputes with their respective neighbors. Kenya has an ongoing dispute over the Ilemi Triangle with both Sudan and Ethiopia,¹⁷ and another dispute over Lake Victoria's Migingo Island with Uganda. Meanwhile, Somalia has a long running border dispute with Ethiopia.¹⁸

This article argues that regardless of International Court of Justice's (ICJ) 2020 ruling on the Kenya-Somalia maritime dispute, the relationship between the two counties will remain uncertain. This is because of other geopolitical factors, such as cross-border conflicts in the Horn of Africa; the involvement of the Kenyan Defense Forces in Somalia under the African Union Mission in Somalia's (AMISOM) efforts to cripple Al-Shabaab insurgency; problems linked to refugee camps in Kenya (Somalian refugees being the majority); and concerns over piracy and criminal activities along Kenya's shared coastal line with Somalia. The article begins by outlining some of the international legal foundations upon which the Court's decision on the Kenya-Somalia dispute might be hinged. It then orients the discussions to the complexities surrounding the dispute. The conclusion offers reflections on whether regional arrangements are the best course of action for such disputes, and reviews potential challenges to such arrangements.

Governance of International Watercourses and Maritimes Boundaries/Borders

Beyond economic and livelihood support arguments, waters can serve as boundaries between states and potential transport routes, particularly when they are navigable. This is why there have been attempts to set up international legal mechanisms, often multilateral, as instruments of governance, even though their enforcement or practical implications remain uncertain. In terms of managing international watercourses, some scholars have acknowledged the difficulty in establishing water boundaries particularly between two contiguous riparian states, pointing out three possible ways in which an agreement might be achieved.¹⁹ That is, "(1) by following a shore of an IWC [international watercourse]; (2) by cutting across its waters; and (3) by using the waterway as a reference for drawing a land boundary."²⁰ All these possibilities determine "the regime of navigation and the allocation of non-navigational uses."²¹ Cooperation is thus needed between states on how to use and/or manage them.

With regard to non-navigational uses, for example, some have identified four principles that have been tested over the years as a means to guide international water laws.²² This includes: a) "absolute territorial sovereignty" (or the Harmon Doctrine), suggesting that "a state is free to dispose, within its territory, of the waters of an international river in any manner it deems fit, without concern for the harm or adverse impact that such use may cause to other riparian states"; b) "absolute territorial integrity," which

“establishes the right of a riparian state to demand continuation of the natural flow of an international river into its territory from the upper riparian or riparians, but imposes a duty on that state not to restrict such natural flow of waters to other lower riparians”; c) “limited territorial sovereignty/integrity,” premised on the assumption that “every riparian state has a right to use the waters of the international river, but is under a corresponding duty to ensure that such use does not harm other riparians”; and d) “community of co-riparian states in the waters of an international river,” which centers on the idea that “the entire river basin is an economic unit, and the rights over the waters of the entire river are vested in the collective body of the riparian states, or divided among them either by agreement or on the basis of proportionality.”²³ Overall, the third principle (limited territorial sovereignty/integrity) remains the privileged one because it considers riparian states as equal and prohibits the states sharing a watercourse of causing “significant harm” to other riparian states.²⁴

In terms of maritime boundary disputes, the United Nations Convention on the Law of the Sea (UNCLOS) remains the main guiding principle for negotiations on matters relating to sea and ocean spaces.²⁵ UNCLOS also offers guidelines on how to manage exclusive economic zones (EEZs), which affords a single state the rights and responsibilities over the sovereignty of a maritime territory.²⁶ Within UNCLOS, as some have pointed out, are other procedures on how to determine “Territorial Sea” limits (allowing a state to claim sovereignty over resources found up to 12

nautical miles [NM] from its coastal lines), “Contiguous Zone” (adding additional 12 NM to the initial 12 NM coastline if the extension in question does not overlap with contiguous zone of another state), and “Continental Shelf,” which allows for “a natural prolongation of the land territory to the continental margin’s outer edge.”²⁷ Overall, the general customs and principles guiding disputes over ocean and sea spaces revolve around “sovereign territory, trust territory, *terra nullius*, and *res communis*.”²⁸ Also, determining from whence a territory begins or ends often draws on “the classic enumeration of the modes of acquisition of territorial sovereignty [which] comprises accretion, cession, succession, conquest, effective occupation, and prescription.”²⁹

The problem with such normative provisions is that political will is often lacking when it comes to their enforcement, particularly when economic and security concerns are at stake.³⁰ Nonetheless, settlements of maritime boundary disputes have taken many forms, ranging from third-party bilateral negotiations to regional and international mediations.³¹ In 2017, for instance, the International Tribunal for the Law of the Sea (ITLOS) settled the Ghana-Côte d’Ivoire maritime border dispute, upholding the equidistance principle to enforce a single maritime delimitation solution.³² In 2013, the ICJ reached a conclusion on Niger-Burkina Faso territorial dispute, which culminated into territorial exchange and town swaps between the two states.³³ The Cameroon-Nigeria dispute over Bakassi peninsula was also settled through the ICJ, concluding that the disputed strip was part of Cameroon’s

territory.³⁴ Since the ICJ's ruling is final and binding for member states, many African states increasingly take this route. The question that arises is whether this is the best path in terms of long-term regional cooperation.

The Kenya-Somalia Boundary Dispute: The Winner Loses All?

At the heart of Kenya-Somalia maritime dispute is whether the nautical boundary between the two countries should run southeast, based on an equidistant projection from terrestrial border line separating the two countries (Somalia's position), or eastwards, according to the 1979 "parallel of latitude" agreement (Kenya's position).³⁵ Figure 1 shows the disputed area between the two states.

Following a preliminary agreement by the two states to settle the dispute outside the courts in 2009 through an memorandum of understanding,³⁶ Somalia changed tack and filed the case at the ICJ in 2014, thwarting efforts to a potential bilateral arrangement.³⁷ Although Somalia's position may appear to make the most sense, based on terrestrial maps, the ICJ does not consider maps as legal titles.³⁸ Accordingly, "while a map generally serves the purpose of identification of the territory and its boundaries, the Court has emphasized that a map, in and of itself, does not constitute a legal title."³⁹ This means both countries have a 50-50 chance of winning the case from a legal point of view. However, the dispute is compounded by other geopolitical factors, most of which revolve around economic, political, and security concerns.

Economic aspects of the dispute center on the control of oil and gas

deposits concentrated in the disputed area that both countries eye for economic gains. To illustrate, the Kenyan government, Qatar Petroleum, Eni (Italian), and Total (French) recently signed an agreement in July 2019, allowing the oil companies to explore Kenya's offshore oil and gas blocks from 2020,ⁱⁱ and some of the blocks might extend to the disputed area. Therefore, Somalia has every reason to be worried, and its decision to take the Court's route is unsurprising. In fact, Somalia is also planning on licensing its offshore oil and gas by 2020 in an effort to attract more investors to its gradually improving economy.ⁱⁱⁱ

Political factors revolve around national pride, power, and influence in the region. Given the geopolitical value of Kenya in the region, it has occupied a central role in matters of regional development, peace, and stability.⁴⁰ Moreover, several Western states with interests in the region often operate within Kenya, with many embassies, multinational corporations, and international non-governmental organizations also operating from Kenya. Certainly, Kenya remains an influential player in the region, and the international community cannot afford to lose its cooperation in regional matters. However, this influential role is progressively marred by cyclic episodes of political violence and systemic corruption within

ii See <https://www.total.com/en/media/news/press-releases/total-strengthens-its-international-partnership-qatar-petroleum> and https://www.eni.com/en_IT/media/2019/07/eni-sells-a-1375-share-in-the-blocks-l11a-l11b-e-l12-deep-offshore-kenya-to-qatar-petroleum, accessed 29 November 2019.

iii See <https://www.reuters.com/article/us-afrika-oil-somalia/somalia-to-announce-plans-for-first-oil-licensing-round-in-december-idUSKBN1XF2FK>, accessed 29 November 2019.

state institutions, which raise doubts about its long-term influence in the region. Uncontrolled borrowing and debt accumulation also threaten the sustainability of Kenya's political and economic power. Kenya therefore has more to lose if the dispute is ruled in favor of Somalia, which is increasingly and steadily transforming its political and economic landscape. In fact, Al-Shabaab insurgents remain the main threat to Somalia's political and economic stability. For this reason, it would probably be naïve to think of contemporary Somalia as a weak state in the conventional sense of the term. Nonetheless, a win for Somalia would probably mean nothing more than a source of national pride, as it is obviously the underdog in the dispute.

Security factors mainly revolve

piracy offshore Kenyan and Somalia coastlines.⁴¹ Furthermore, the border between Kenya and Somalia has, over the years, been marred by cross-border conflicts, culminating into forced migrations, with Somalis remaining the majority of displaced populations in refugee camps such as Dadaab.⁴² The Kenyan government threatened to shut down the camp in 2015 over security concerns, following a series of terrorist attacks in Kenya between 2013 and 2015.⁴³ Losing the case against Somalia might jeopardize Kenya's cooperation and role in AMISOM. Even so, Kenya receives both technical and financial support from the international community, particularly the United States, to carry out its military operations in Somalia. It is therefore uncertain whether it has the

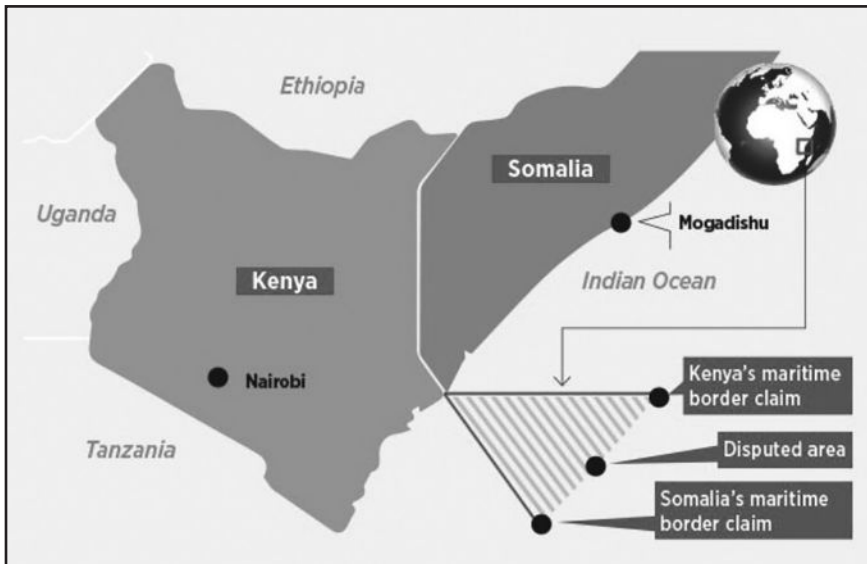


Image Source: Nation Media Group

around the containment of the Al-Shabaab terrorist groups, including other criminal activities such as

capacity and/or military might to carry out such missions without external support. With uncontrolled circulation

of weapons in Somalia, and resilience of its insurgent groups over the years, security dynamics might shift considerably if the support Kenya receives is halted due to non-cooperation.

While these factors are subject to interpretation and contextual dynamics, what is certain is that the security landscape in East Africa and the Horn will be impacted by this ruling. This is further complicated by the shifting nature of local, regional, and international politics. In case of a loss, Somalia might see the institutions of global governance as favoring Kenya given its geopolitical value in the region. This might be used by Al-Shabaab terrorist and criminal operatives to continue recruit more sympathizers. A loss for Kenya might mean uncertain or limited cooperation, which the international community cannot afford. In fact, “the US, NATO, the EU and individual states like Russia, China, India and South Korea maintain a naval presence around the Horn of Africa,”⁴⁴ operations which depend on Kenya’s cooperation.

Furthermore, the dispute has been drawing alliances, with the Arab League recently warning Kenya against illegal annexation of Somalia’s territory, conveniently framed by Somalia as “Arab waters.”⁴⁵ These dynamics underscore the complex nature of the dispute. Thus, regardless of the ICJ’s verdict, the winner is still poised to lose since both countries are struggling to maintain a working diplomatic relation over other unsettled cross-border issues. More interestingly, however, is why Kenya is more favorable to a settlement outside the court, while Somalia insists on the ICJ’s ruling as the best course

of action. The answer to this question probably lies in the judicial comity of state parties to the ruling, however inconvenient the decision might be.

Are Regional Arrangements the Best Course of Action?

As argued in the previous sections, the Kenya-Somalia maritime dispute is compounded by a myriad of geopolitical factors that stretch beyond political, economic, and security concerns. The dispute therefore invites a reflection on whether regional arrangements would be the best course of action for these kinds of disputes. Of course, such a consideration is not something new. Boutros Boutros-Ghali already entertained such a thought in 1992, pointing out that “the Security Council has and will continue to have primary responsibility for maintaining international peace and security, but regional action as a matter of decentralization, delegation and cooperation with United Nations efforts could not only lighten the burden of the Security Council but also contribute to a deeper sense of participation, consensus and democratization in international affairs.”⁴⁶ Accordingly, three reasons drive the rationale to consider regional arrangements: a) the assumption that wars and migrations lead territories and economies to consolidate their interests toward action “rather than remain on the sidelines”; b) the fact that “they understand better local cultures and actors because of their shared backgrounds and experiences, and thus they can be more effective in the field”; and c) “their agendas are not overcrowded with every global problem, and that they can focus better on the crisis at hand.”⁴⁷

Although less plausible at this point, a regional resettlement for this case would test the reasonableness of the “local-turn” discourses emphasizing local solutions for local problems, which, even though tainted by “liberal peace” criticisms, has gained traction in academic and policy debates.⁴⁸ Such a “turn” would, first and foremost, mean the two states recognize that “African leaders and the AU understand the problems of Africans better than anyone else, and [that] they are also the ones greatly affected by these disputes.”⁴⁹ Further, such a “turn” would require discussion on whether the 2016 Lomé Charter—providing state parties with, among others, guidelines on maritime governance and responsibility to delimit their own boundaries—would offer meaningful alternative dispute resolution mechanisms for Kenya and Somalia. This is because the Lomé Charter aligns with the African Union’s 2050 Africa’s Integrated Maritime Strategy, whose success will also depend on regional cooperation on how to use and/or manage Africa’s watercourses and maritime boundaries.⁵⁰ Finally, such an arrangement would test the feasibility of the African Union’s ambitious border policy seeking to transform hard/soft borders management practices into “bridges” within the continent through cross-border collaboration.⁵¹

The success of such arrangements will, of course, depend on several structural factors and/or conditions. First, where it would draw its legitimacy at the local, regional and international levels is not clear, particularly the governance structure. Second, and most importantly, what would

cooperative structures and enforcement power look like—coercion or diplomacy? Furthermore, whether cooperative and/or enforcement powers will consider varying capacity of states need to be reflected upon. Third, the manner in which such an arrangement would interact with normative principles and/or treaties at the global level, including the interests of superpowers, will have to be rethought. Fourth, how these arrangements would be financed in the long term to ensure their sustainability will require a reflection on consolidated efforts toward funding structures among party states. Finally, would such arrangements require “subcontracting” for certain responses, despite this being one of the criticisms levelled against UN security organs? The history shows that such an approach has produced mixed outcomes, most of which have been negative.

Concluding Remarks

In this article, I have argued that the Kenya-Somalia maritime boundary dispute points to a growing trend that underscores the need for a clear and complete formalization of international borders, as many African states are embarking on an ambitious exploration of natural resources within their watercourses and sea spaces. This is likely to prevent potential incremental effects of “water wars” in the continent. In a sense, this view aligns with those contending that, “in modern international relations, a territorial boundary generally needs to be complete and precise if it is to be useful, with no areas left vague; and [that] these qualities may well be secured by a judicial or arbitral settlement.”⁵²

The article also holds that a clear formalization of maritime boundaries would, at best, address issues of legality over which state has sovereign rights or obligations over the disputed area but will certainly not settle the dispute in the long term. This is why the winner of the case still loses. Further, the ICJ's ruling on the dispute will most certainly influence the course of action taken by other African states in similar situations, with a potential ripple effect across the continent. This is due to the shifts in regional balance of power and the increasing role China plays in Africa's economic and political matters. In fact, China has expressed its support for Kenya in its bid to secure the 2021-2022 non-permanent seat at the Security Council.

In short, it is uncertain what the ruling might mean for other African coastal states not content with colonial maritime border maps, and whether they would take the ICJ route or consider regional arrangements as an alternative means to settle their disputes. While the answer to these questions is not straightforward, regional arrangements remain the most promising course of action for these kinds of disputes because they subscribe to the logic of task-sharing responsibilities with multilateral institutions of global governance on matters of security. In practice, however, we are reminded that "a general reluctance to engage local resolution mechanisms can be widely observed and it is apparent that states rely upon the arbitration and adjudication facilities provided by international courts and tribunals, in particular the International court of Justice (ICJ) and the International Tribunal for the Law

of the Sea (ITLOS)...even in circumstances where capable regional tribunals exist..."⁵³

Endnotes

- 1 Matthew Craven, "Between law and history: the Berlin Conference of 1884–1885 and the logic of free trade," *London Review of International Law* 3, no. 1 (2015): 31–59.
- 2 Markus Kornprobst, "The Management of Border Dispute in African Regional Sub-Systems: Comparing West Africa and the Horn of Africa," *Journal of Modern African Studies* 40, no. 3 (2002): 369–393.
- 3 Mi Yung Yoon, "European Colonialism and Territorial Disputes in Africa: The Gulf of Guinea and the Indian Ocean," *Mediterranean Quarterly* 20, no. 2 (2009): 77–94.
- 4 Peter Andreas, "Redrawing the Line: Borders and Security in the Twenty-first Century," *International Security* 28, no. 2 (2003): 78–111; Kerry Goettlich, "The rise of linear borders in world politics," *European Journal of International Relations* 25, no. 1 (2019): 203–228.
- 5 Stelios Michalopoulos and Elias Papaioannou, "The Long-Run Effects of the Scramble for Africa," (National Bureau of Economic Research, NBER Working Paper No. 17620 (2015).
- 6 Christian Bueger, "Communities of Security Practice at Work? The Emerging African Maritime Security Regime," *African Security* 6, (2013): 297–316; Wafula Okumu, "Resources and border disputes in Eastern Africa," *Journal of Eastern African Studies* 4, no. 2 (2010): 279–297.
- 7 Daron Acemoglu, Simon Johnson, and James A. Robinson, "An African Success Story: Botswana," in *Search of Prosperity: Analytic Narratives on Economic Growth*, ed. Dani Rodrik (Princeton, NJ: Princeton University Press, 2003), 80–122; Paul Collier, "The Political Economy of Natural Resources," *Social Research* 77, no. 4 (2010): 1105–1132; Jeffrey A. Frankel, "The Natural Resource Curse: A Survey of Diagnoses and Some Prescriptions," HKS Faculty Research Working Paper Series RWP12–014 (2012), John F. Kennedy School of Government, Harvard University.
- 8 Jason Mosley and Elizabeth E. Watson, "Frontier transformations: development visions, spaces and processes in Northern Kenya and Southern Ethiopia," *Journal of Eastern African Studies* 10, no. 3 (2016): 452–475.
- 9 Patience Munge Sone, "Interstate border disputes in Africa: Their resolution and implications for human rights and peace," *African Security Review* 26, no. 3 (2017): 325–339.
- 10 Youssef M. Hamada, "The Nile River Basin and Water Security," in *The Grand Ethiopian Renaissance Dam, its Impact on Egyptian Agriculture and the Potential for Alleviating Water Scarcity* (Springer, Cham: Switzerland, 2017); Fred H. Lawson, "Egypt versus Ethiopia: the Conflict over the Nile Metastases," *The International Spectator* 52, no. 4 (2017): 129–144.
- 11 "Bridging the gap in the Nile waters dispute," International Crisis Group, 20 March 2019, <https://www.crisisgroup.org/africa/horn-africa/ethiopia/271-bridging-gap-nile-waters-dispute>.
- 12 Mieke Westerkamp and Annabelle Houdret, *Peacebuilding across Lake Albert: Reinforcing Environmental Cooperation between Uganda and the Democratic Republic of Congo* (Brussels: European Commission, 2010).
- 13 Sone, "Interstate border disputes in Africa."
- 14 Salman M. Salman, "The Abyei territorial dispute between North and South Sudan: Why has its resolution proven difficult?," in *Land and Post-conflict Peacebuilding*, eds. Jon Unruh and Rhodri Williams (London, Earthscan, 2013), 21–63.
- 15 Yoon, "European colonialism and territorial disputes in Africa: the Gulf of Guinea and the Indian Ocean."
- 16 Olivia O. Green, Barbara A. Cosens, and Ahjond S. Garmestani, "Resilience in Transboundary Water Governance: the Okavango River Basin," *Ecology and Society* 18, no. 2 (2013): 23–38.
- 17 Robert O. Collins, *The Ilemi Triangle* (Santa Barbara: University of California, 2010).
- 18 Asnake Kefale Adegehe, "Federalism and ethnic conflict in Ethiopia: A comparative study of the Somali and Benishangul-Gumuz regions" (PhD diss., Leiden University, 2009).
- 19 Lucius Cafilisch, "Regulation of the Uses of International Watercourses," in *International watercourses: enhancing cooperation and managing conflict*, eds. Salman M. Salman and Laurence Boisson de Chazournes (World Bank Technical Paper No. 414, 1998), 1–6.
- 20 Cafilisch, "Regulation of the Uses of International Watercourses," 4.
- 21 Cafilisch, "Regulation of the Uses of International Watercourses," 6.
- 22 Salman M. Salman, "The Helsinki Rules, the UN Watercourses Convention and the Berlin Rules: Perspectives on International Water Law," *International Journal of Water Resources Development* 23, no. 4 (2007): 625–640.
- 23 Salman, "The Helsinki Rules," 627.
- 24 Salman, "The Helsinki Rules."
- 25 Robert Beckman, "The UN Convention on the Law of the Sea and the Maritime Disputes in the South China Sea," *American Journal of International Law* 107, no. 1 (2013): 142–163; Sienho Yee, "Conciliation and the 1982 UN convention on the Law of the Sea," *Ocean Development and International Law* 44, no. 4 (2013): 315–334.
- 26 Theodore Okonkwo, "Maritime Boundaries Delimitation and Dispute Resolution in Africa," *Beijing Law Review* 8, no. 1(2017): 55–78.
- 27 Robin Gonzales, "The Spratly Islands Dispute: International Law, Conflicting Claims, and Alternative Frameworks For Dispute Resolution" (Thesis, University of Nevada, Las Vegas, 2014).
- 28 Gonzales, "The Spratly Islands Dispute," 9.
- 29 Hugh Thirlway, "Territorial Disputes and

- Their Resolution in the Recent Jurisprudence of the International Court of Justice." *Leiden Journal of International Law* 31, no. 1 (2018): 117–146.
- 30 Sookyeon Huh, "Title to Territory in the Post-Colonial Era: Original Title and Terra Nullius in the ICJ Judgments on Cases Concerning Ligitan/Sipadan (2002) and Pedra Branca (2008)," *European Journal of International Law* 26, no. 3 (2015): 709–725.
- 31 Sone, "Interstate border disputes in Africa."
- 32 Nuwan Peiris, "Ghana v. Ivory Coast," *American Journal of International Law* 112, no. 1 (2018): 88–93; Millicent McCreath and Zoe Scanlon, "The Dispute Concerning the Delimitation of the Maritime Boundary Between Ghana and Côte d'Ivoire: Implications for the Law of the Sea," *Ocean Development & International Law* 50, no. 1 (2019): 1–22.
- 33 Thirlway, "Territorial Disputes and Their Resolution."
- 34 Piet Konings, "The Anglophone Cameroon-Nigeria Boundary: Opportunities and Conflicts," *African Affairs* 104, no. 415 (2005): 275–301.
- 35 Beatrice Bonafé, "Maritime Delimitation in the Indian Ocean," *American Journal of International Law* 111, no. 3 (2017): 725–731; International Court of Justice, "Maritime Delimitation in the Indian Ocean. Somalia vs. Kenya". Preliminary objections of the Republic of Kenya, 7 October 2015, <https://www.icj-cij.org/files/case-related/161/19074.pdf>
- 36 "Maritime delimitation in the Indian Ocean. Somalia vs. Kenya: Preliminary Objections of the Republic of Kenya," International Court of Justice, 7 October 2015.
- 37 Bonafé, "Maritime Delimitation in the Indian Ocean."
- 38 Huh, "Title to territory in the post-colonial era."
- 39 Thirlway, "Territorial Disputes and Their Resolution."
- 40 "La communication gouvernementale au Kenya," in *La lutte contre le terrorisme en Afrique: Acte de bienveillance ou prétexte géostratégique?*, eds. Moda Dieng, Philip Onguny, and Issaka Souaré (Les Presses de l'Université de Montréal, 2019), 187–202.
- 41 Peter Chalk, "Piracy off the Horn of Africa: Scope, Dimensions, Causes and Responses," *Brown Journal of World Affairs* 16, no. 2 (2010): 89–108; J. Ashley Roach, "Countering Piracy off Somalia: International Law and International Institutions," *American Journal of International Law* 104, no. 3 (2010): 397–416.
- 42 Brendan Cannon, "Terrorists, Geopolitics and Kenya's Proposed Border Wall with Somalia." *Journal of Terrorism Research* 7, no. 2(2016): 23–37.
- 43 Onguny, "Communication gouvernementale au Kenya."
- 44 Francois Vrey, "Turning the Tide: Revisiting African Maritime Security," *Scientia Militaria: South African Journal of Military Studies* 41, no. 2 (2013): 1–23.
- 45 Aggrey Mutambo, "Kenya-Somalia sea row threatens terror, piracy war," *The EastAfrican*, accessed November 29, 2019, <https://www.theeast-african.co.ke/news/ea/Kenya-Somalia-sea-row-threatens-war-on-piracy-/4552908-5166156-nexjxhbz/index.html>.
- 46 Muthiah Alagappa, "Regional Arrangements, the UN, and International Security: a Framework for Analysis", in *Beyond UN Subcontracting: Task-Sharing with Regional Security Arrangements and Service-Providing NGOs*, ed. Thomas Weiss (Palgrave Macmillan, London, 1998), 3–29.
- 47 Thomas Weiss, ed., *Beyond UN Subcontracting: Task-Sharing with Regional Security Arrangements and Service-Providing NGOs* (London: Palgrave Macmillan, 1998), xii.
- 48 Timothy Donais and Amy C. Knorr, "Peace-building from below vs. the liberal peace: The Case of Haiti," *Canadian Journal of Development Studies* 34, no. 1 (2013): 54–69.
- 49 Sone, "Interstate border disputes in Africa."
- 50 Vrey, "Turning the Tide: Revisiting African Maritime Security."
- 51 *From Barriers to Bridges: Support to the African Union Border Programme*, GIZ [Brochure, 2016], https://www.giz.de/en/downloads/AUBP_Brochure_ENG_June2016.pdf
- 52 Thirlway, "Territorial Disputes and Their Resolution."
- 53 Timothy Walker, "Why Africa must resolve its maritime boundary disputes," Institute for Security Studies (Policy brief 80 October 2015), 1–7.

African Infrastructure with Chinese Characteristics

By Karl T. Muth, PhD

Karl T. Muth has taught at Northwestern University since the 2011–12 academic year. At Northwestern, he was the youngest person ever appointed to teach across five disciplines: a lecturer in economics, organizational behavior, public policy, and statistics, then obtaining a separate teaching appointment (adjunct professor of law) at the Pritzker School of Law at age 32. Karl studied law in the Netherlands before earning JD and MBA degrees in the United States, the latter with a concentration in economics from the University of Chicago. He went on to earn master's and PhD degrees from the London School of Economics, after which he was part of the Emerging Leaders program at the Harvard Kennedy School. Karl resided in Uganda from 2011 through 2013 and has worked on four continents designing financial and insurance products for multinational private sector institutions; he is interested in Nilotic ethnolinguistic history and speaks conversational Acholi and Lango.



Abstract

China's bet on infrastructure in Africa rests on an assumption that African development will be similar in a macro trajectory and technological path to Chinese development from 1952 till now.ⁱ Thus far, this has proven relatively accurate. Though sundry parts of post-colonial Africa have developed, industrialized, and urbanized at varying rates,ⁱ the differences in these rates are arguably less

extreme than was true between various provinces of China.²

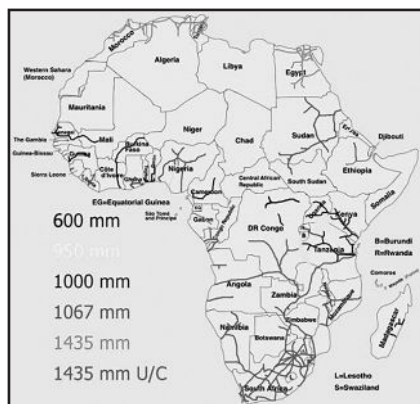
It is notable that the development paths of these countries have been kindred in process, though not synchronized in time.ⁱⁱ This asynchronous but predictable demand for rail technology is advantageous for China, which sees Africa as a source of reliable demand for its railway equipment³ that has found little commercial export success in the West.

The Northern Corridor Integration Project (NCIP) is ambitious. As part of the East African Railway Master Plan—an even more comprehensive

i For more on this plenary assumption, see generally cf. Steven W. Mosher, *Hegemon: China's Plan to Dominate Asia and the World* (New York: Encounter Books, 2002); Bruno Maçães, *Belt and Road: A Chinese World Order* (London: Hurst Publishers, 2018); and Michael Pillsbury, *The Hundred-Year Marathon: China's Secret Strategy to Replace America as the Global Superpower*, (New York: St. Martin's Griffin, 2016). Scholars have for the past 10 to 15 years hypothesized that China's own experience as a developing country may shape its attitudes toward African counterparts; see Robert I. Rotberg, "China's Mixed Role in Africa," Boston.com, 23 June 2007, http://archive.boston.com/news/globe/editorial_opinion/oped/articles/2007/06/23/chinas_mixed_role_in_africa/.

ii Irene Yuan Sun, *The Next Factory of the World: How Chinese Investment Is Reshaping Africa* (Boston: Harvard Business Review Press, 2017) suggests Africa is now reaching a point of both physical and human capital development that it can become a successor low- and moderate-skill producer to China; Deborah Brautigam, *The Dragon's Gift: the Real Story of China in Africa* (Oxford: Oxford University Press, 2011) suggests China's strategy in Africa is not only informed by, but in some ways patterned after, its own development trajectory.

infrastructure development agenda—many (non-African) policymakers, commentators, and politicians heralded the unveiling of the NCIP as the next phase of development in Africa.ⁱⁱⁱ But funding and progress to complete the work have both been sporadic and incomplete.⁴



Caption: A diagram, above, illustrates the various Master Plan routes and gauges of rail. Note the choice of rail gauge is highly correlated with the colonial power that controlled a given area pre-1960.

However, with a combination of technical assistance, foreign funding, and system standardization, there may be a path forward for the rail link that joins the deep-water Kenyan port of Mombasa to the landlocked country of Uganda to its west and eventually to Juba, South Sudan. This assistance, funding, and standardization will come primarily from China—part of a decades-long mating dance between increasingly capital-hungry African governments and an increasingly

iii For a summary of contemporary optimism, see “Building the Future: A Look at the Economic Potential of East Africa,” U.S.-Africa Business Center, 14 October 2016, https://www.uschamber.com/sites/default/files/documents/files/building_the_future_report_10_14_2016.pdf.

cash-flush Chinese government.⁵

African politicians and governments, driven by a thirst for Chinese capital, often make domestic decisions hoping to please visiting Chinese businesspeople and bureaucrats.⁶ These include: posting conspicuous Sinograph signage in airports or public places where it is culturally alien, the use of characteristically Chinese iconography on African coins and notes (see below), and the increasing prevalence of chiefs of staff, commerce secretaries, and other visible African diplomatic personnel learning basic Mandarin Chinese.⁷



Caption: A photograph taken by the author while living on fieldwork in Laascaanood shows the obverse and reverse of Somaliland coins minted to celebrate the start of the Chinese zodiac's Year of the Dragon. Somaliland's semiautonomous regional government lobbied for substantial infrastructure investment from China during 2009-13 and its revision of its currency, online media, and signage was arguably one of the most overt attempts to signal African compatibility with visiting Chinese investors.

Africa's next generation is so deeply intertwined with Chinese policymaking and standardization of railway projects that all member countries of the Northern Corridor Integration Project (NCIP)—a subset of the Master Plan's connection, salvaging, and repurposing of existing rail corridors—have agreed to adopt railbeds

and signal equipment that conform with Chinese National Railway Class 1 specifications (CNR1).⁸ The use of the CNR1 standard outside Asia is, at first, unsurprising as it provides an international standardization alternative to the existing mélange of rail and loading gauges, including the often-anachronistic European standards (in some cases, French-derived rail standards used in African contexts have not been used in France itself for decades, or at all in the case of the Trans-Saharan Railway).^{iv}

China's CNR1 specification is a

iv The Trans-Saharan Railway, originally intended to be built to the standard of prewar French railways, almost immediately diverged in quality, practices, and railbed techniques (in part owing to the sandy context but also due to the limited abilities of a conscripted labor force) from railways built in France. For a summary of the project, see generally "Trans-Saharan Railway," Accessed November 19, 2019, <https://www.globalsecurity.org/military/world/europe/fr-trans-saharan-railway.htm>.

durable railway standard that can support both passenger and freight traffic and can be further improved to support high-speed operation, as showcased by the high-speed trains that run on tight-tolerance, improved CNR1-specification rail from Guangzhou to Shenzhen at 350 kilometers per hour.⁹ The tolerance specifications for CNR1 rail lines in Africa are, importantly, very strict (with an allowable deviation of 10 percent that is specified by British rail standards); hence, the resulting system should be able to utilize Chinese-built rolling stock^v as well as Chinese-brokered partner-constructed cars, such as the

v Examples include the "Type 25" series of rolling stock marketed by China to African countries. A press release announcing sale of same to Zimbabwe can be found here: "China CSR Puzhen Company Allocates Three Chips in Africa," January 29, 2010, <http://finance.sina.com.cn/chanjing/gs-news/20100129/11213203510.shtml>.



Caption: A photograph, above, shows travelers riding on top of a train from Babanousa to Wau. Note the intermediate-voltage transmission lines running above-ground along this rail right-of-way to the left and a service frontage road constructed to the benefit of both rail and electrical infrastructure.

Bombardier–Sifang intermediate passenger trains currently used in Asia throughout the China Railways system. And, while China was underprepared to produce its own locomotives and rolling stock in the 1950s and 1960s as its domestic rail system expanded,^{vi} it is now equipped to be an exporter of rail technology to emerging markets who, like 1960s China, are unlikely to produce their own locomotives, signals, and rolling stock.^{vii}

China’s long-term vision is not, of course, entirely altruistic. The Chinese purpose for building a substantial CNR1 specification rail network in Africa is, at least in part, to become a supplier to three evolutions happening simultaneously in Africa.¹⁰ First, as agriculture in Africa becomes dramatically more modernized and productive, the harvest will need to be moved by a modern rail network, and China can provide the freight cars and reliable locomotives needed. Second, as agrarian areas develop and become more focused on

vi This was exacerbated by the so-called *Sino-Soviet split*, a series of events that meant China gradually stopped purchasing rail signals, locomotives, and rolling stock from the USSR. The term comes from the popular book *Sino-Soviet Split: Cold War in the Communist World* by Lorenz M. Luthi (Princeton University Press, 2008). The diplomatic divergence of the two countries, and its implications for Chinese industrialization including rail, is described in substantial detail in China’s Quest: *The History of the Foreign Relations of the People’s Republic of China* by John W. Garver (Oxford University Press, 2016), 113–45. Notably, early interest in Africa is discussed in a Foreign Affairs article of the same vintage: Robert A. Scalapino, “Sino-Soviet Competition in Africa,” *Foreign Affairs* 42, no. 4 (1964): 640–654.

vii Recent articles in the Western press discuss China’s remarkable capacity for building both railways and rail equipment. See David Grossman, “China Sure Is Building a Lot of High-Speed Rail,” *Popular Mechanics*, 22 October 2019, <https://www.popularmechanics.com/technology/infrastructure/a29548729/china-high-speed-train/>; “China Has Built the World’s Largest Bullet-Train Network,” *Economist*, 13 January 2017, <https://www.economist.com/china/2017/01/13/china-has-built-the-worlds-largest-bullet-train-network>.

professional services, software, and non-agricultural activities, the demand for intermediate-speed long-haul passenger rail will increase both for business travel and for tourism—much as it did in China.¹¹ Third, the CNR1 railbed AE5 standard to be used in Africa also includes allowances for cable right-of-way, laying of fiber optic and other communications technologies, as well as the erection of wireless repeaters and other wireless network infrastructure alongside rail lines—thereby creating a natural foothold in Africa for China’s hardware, telecom, and other firms to be key partners and suppliers to African governments.¹²

Caption: A photograph taken by the author shows deteriorating meter-gauge rail in Uganda likely laid by the



African Sappers, a colonial-era overseas engineering practice within the Corps of Royal Engineers. This rail once allowed the northern town of Gulu, Uganda to be connected to what was then referred to as the British East African Rail network and what is now called the Uganda Standard Gauge railway. After improvements and repairs, the Uganda Standard Gauge railway will exclusively carry Chinese-made “Type 25” rolling stock.

Similar to 1950s China under Mao Zedong,¹³ countries like Uganda lack the industrial base and domestic demand to construct their own locomotives, rolling stock, signaling equipment, and other railroad assets. Mao created what is now the China Railway Engineering Corporation to build early railways, including the famous Silk Road Railway (also called the Lanxin Railway); much of Chinese railway design can be directly traced to these early experiments in railway construction.¹⁴ African countries do not yet seek the luxury of railway experimentation and want to buy an off-the-shelf solution.

It is worth noting, however, that outsourced Chinese problem-solving comes at a high price in this context.

As recently as the final weeks of 2019, China claimed Kenya violated the financing covenants attached to the Chinese railway financing package.¹⁵ Under the onerous and exacting terms of that package, Kenya will likely be forced to forfeit existing non-rail infrastructure to China as part of a “collections process,” including the

port of Mombasa. Mombasa is the maritime prize of East Africa^{viii}—one of the most important natural deep-water harbors in the world—and it is named as collateral in Chinese contractual agreements with the Kenyan governments. This is not unprecedented, as Zambia and Sri Lanka have already been forced to hand over their ports to the Chinese in whatever amount to debt settlement proceedings.¹⁶

Saddled with the costs of crumbling colonial-era rail infrastructure that is often unreliable or inoperable, African leaders are understandably interested in any available alternatives. And China is, symbiotically and not coincidentally, interested in cultivating a new continent of customers ready to build African infrastructure with Chinese characteristics. But African diplomats should not mistake trade for aid, or assistance for altruism—in Chinese foreign policy, everything has a price.

viii Kilindini Harbour in Mombasa is one of the great natural harbors of the world, on par with Victoria Harbour in Hong Kong or San Francisco Bay. See “The Bottleneck,” *Economist*, 19 March 2016, <https://www.economist.com/middle-east-and-africa/2016/03/19/the-bottleneck>.



Caption: A Chinese-made locomotive wearing a livery that includes the Kenyan flag, bought by the Kenyan government with money borrowed from China's Exim Bank, arrives near the key Kenyan port of Mombasa (see port cranes, left) during a trial run of the locomotives and associated rolling stock in 2017. Photo by Xing Yihang appears in a World Bank blog on the same topic, available at: <https://blogs.worldbank.org/ppps/kenya-5-new-railway-and-emergence-government-government-procurement-method>

Endnotes

- 1 Daron Acemoglu, Simon Johnson, and James A. Robinson, "The Colonial Origins of Comparative Development: An Empirical Investigation," *American Economic Review* 91, no. 5 (December 2001): 1369–1401.
- 2 Sylvie Démurger, "Infrastructure Development and Economic Growth: An Explanation for Regional Disparities in China?" *Journal of Comparative Economics* 29, no. 1 (2001): 95–117.
- 3 Andrew Jacobs, "Joyous Africans Take to the Rails, With China's Help," *New York Times*, 8 February 2017, <https://www.nytimes.com/2017/02/07/world/africa/africa-china-train.html>.
- 4 "Improving Transport Connectivity for LLDCs and the Status of Implementation of the Vienna Programme of Action in the Africa Region," UN-OHRLS and UNECA, 20 April 2019.
- 5 Matina Stevis-Gridneff, "More of Africa Finds Itself in China's Debt," *The Wall Street Journal*, 25 July 2018, <https://www.wsj.com/articles/more-of-africa-finds-itself-in-chinas-debt-1532549741>.
- 6 Richard Partington, "Fears Grow in Africa That the Flood of Funds from China Will Start to Ebb," *Guardian*, 5 January 2019, <https://www.theguardian.com/business/2019/jan/05/africa-fears-grow-flood-funds-china-start-to-ebb>; "China Raises Fears of 'New Colonialism' with \$60 Billion Investment across Africa," *Telegraph*, 3 September 2018, <https://www.telegraph.co.uk/news/2018/09/03/china-invest-60-billion-across-continent-raising-fears-new-colonialism/>; see also David Pilling, "Chinese Investment in Africa: Beijing's Testing Ground," *Financial Times*, 13 June 2017, <https://www.ft.com/content/of534aa4-4549-11e7-8519-9f94ee97d996>.
- 7 Larry Hanauer and Lyle J. Morris, "China in Africa: Implications of a Deepening Relationship," *RAND Corporation*, 2014, https://www.rand.org/pubs/research_briefs/RB9760.html; see also generally Young Deng, "China in Africa: The Diplomatic New Normal," *Columbia Journal of International Affairs*, 15 March 2017, <https://jia.sipa.columbia.edu/online-articles/china-africa-diplomatic-new-normal>.
- 8 "Kenya, China Sign Standard Gauge Railway Agreement," *Daily Nation*, 11 May 2014, <https://www.nation.co.ke/news/East-Africa-China-Standard-Gauge-Railway/1056-2310836-vvl2cjj/index.html>; see also Jack Moore, "China Railway to Link Kenya, Uganda, Rwanda, Burundi and South Sudan," *International Business Times UK*, 12 May 2014, <https://www.ibtimes.co.uk/china-railway-link-kenya-uganda-rwanda-burundi-south-sudan-1448216>; see also "Mombasa - Nairobi Standard Gauge Line Funding Agreed," *Railway Gazette International*, 14 May 2014, <https://www.railwaygazette.com/news/infrastructure/single-view/view/mombasa-nairobi-standard-gauge-line-funding-agreed.html>.
- 9 Jacky Wong, "China's High-Speed, High-Margin Rail IPO," *Wall Street Journal*, accessed 14 December 2019, <https://www.wsj.com/articles/chinas-high-speed-high-margin-rail-ipo-11577182216>.
- 10 "China Says It Built a Railway in Africa out of Altruism, But It's More Strategic than That," *Los Angeles Times*, 4 August 2017, <https://www.latimes.com/world/asia/la-fg-china-africa-ethiopia-20170804-htmlstory.html>.
- 11 Amy Hawkins and James Thrope, "The Migrant Workers Behind China's Economic Miracle Are Miserable," *Atlantic*, 31 May 2019, <https://www.theatlantic.com/international/archive/2019/05/china-migrant-workers-miserable/589423/>; see also Xingna Nina Zhang, Wenfei Winnie Wang, Richard Harris, and George Leckie Leckie, "Analysing Inter-Provincial Urban Migration Flows in China: A New Multilevel Gravity Model Approach," *Migration Studies of Oxford University Press*, 2018.
- 12 Wade Shepard, "What China Is Really Up To In Africa," *Forbes*, 3 October 2019, <https://www.forbes.com/sites/wadeshepard/2019/10/03/what-china-is-really-up-to-in-africa/#405259f05930>.
- 13 Elisabeth Köll, *Railroads and the Transformation of China* (Cambridge: Harvard University Press, 2019).
- 14 "The Economic Development of Xingiang After the Founding of New China," *China.org*, <http://www.china.org.cn/e-white/20030526/5.htm>.
- 15 Lloyd M'bwana, "China to Take over Kenya's Main Port over Unpaid Huge Chinese Loan," *Marabi Post*, 18 November 2019, <https://www.maravipost.com/china-to-take-over-kenyas-main-port-over-unpaid-huge-chinese-loan/>.
- 16 Maria Abi-Habib, "How China Got Sri Lanka to Cough Up a Port," *New York Times*, 25 June 2018, <https://www.nytimes.com/2018/06/25/world/asia/china-sri-lanka-port.html>.

The Politics of Biafran Separatism in Nigeria: Spikes and Falls in the Intensity of the Agitation

By Adeniyi Jeremiah Awoyemi and Olugbenga Opeyemi Okuande



Adeniyi obtained his first and second degree from the Department of Political Science, University of Ibadan.



Olugbenga has a master of science degree in African development (Merit Grade) courtesy of a fully funded Commonwealth Shared Scholarship from both LSE and Department for International Development in United Kingdom. Olugbenga graduated with a First-Class Honours bachelor's degree in sociology from the University of Ibadan, Nigeria.

ABSTRACT

While existing explanations for the recurring agitation for Biafra are not necessarily wrong, this study notes that the ethnic competition argument is overly elite-driven, neglecting the perspectives and autonomous actions of the masses. Consequently, it poses Biafra separatism in highly static terms, failing to account for variation in the intensity of the agitation over time and the factors that could lead to spikes and fall in the intensity of the agitation across different administration. As such, the study focused on the elements and dynamics driving the resurgent, the uprising of, and the fluctuation in the intensity of the Biafran agitation in Nigeria, with attention to different administrations in the Fourth Republic (1999–2019). Drawing on the evidence from the literature, the study observed

that what ties all the existing explanations together is the level of feeling of collective victimization in separatist movements. Also, having studied all the administrations in the Fourth Republic, it is observed that during administrations when there is a high feeling of collective victimization and low sense of inclusion (in political recruitment and governance), separatist agitation tends to be very high. Conversely, administrations of high sense of inclusion and low feelings of collective victimization see the lowest levels of separatist agitations.

Introduction

About 50 years ago, Nigeria's south-east region comprising Abia, Anambra, Ebonyi, Enugu, and Imo, as well as other adjoining ethnic groups, formally announced its break away from Nigeria and proclaimed itself a new

nation called Biafra.¹ The federal government effectively subdued the secessionist action after almost three years of devastating civil war (1967–1970), and five decades later, agitation for the state of Biafra has resurfaced.² Since November 2015, southeast Nigeria (dominated by the Igbo) has witnessed demonstrations by Biafran separatists.³ On 2 December 2015, the protests degenerated into violence, when two policemen and some protesters, out of the thousands that had blocked the strategic Niger Bridge in the commercial city of Onitsha, Anambra State, were reportedly killed.⁴ Also, the protests by Biafran separatists on 19 October 2015 led to the arrest of Nnamdi Kanu, the leader of the Indigenous People of Biafra (IPOB) and director of web-based Radio Biafra, on charges of sedition, ethnic incitement, and treasonable felony.⁵ The IPOB and Radio Biafra stepped up a struggle that was championed by the Movement for the Actualization of the Sovereign State of Biafra (MASSOB) formed by Ralph Uwazuruike in 1999.⁶

A combination of state repression and internal dissent resulted in the weakening of MASSOB, consequently leading to the formation of Biafran Zionist Front (BZF).⁷ Nevertheless, the weakening of MASSOB and BZF opened the way for the IPOB to continue the agitation for Biafran separatism.⁸ The protests by the IPOB heightened security fears and tension in the southeast and Niger Delta regions of Nigeria. Thus, putting pressure on the Nigerian government to deal with the agitation.⁹ The recent upsurge in the demand for a separate Biafran State calls for an inquiry to understand why the agitation has persisted, for about

50 years after the end of the Nigerian civil war. Hence, this study is designed as a knowledge-building effort to understand the various elements driving the uprising of the Biafran agitation in southeast Nigeria with attention to different administrations in the Nigeria's Fourth Republic (1999–2019). The article starts with the history of Biafran war, post-war policies by the Nigerian government to douse Biafran agitation, as well as the emergence of secessionist movements across different administrations in Nigeria (1999–2019). Moreover, unbalanced political recruitment and non-compliance with the zoning principle (rotation of political power) are discussed as the causal factors for the spikes and falls in the intensity of Biafran agitation in Nigeria. The article concludes by revealing the consequences of the reoccurring agitation on the Nigerian state.

Methodology

A desk-based research method was adopted. The data used in this study were collected from two different sources, namely documentary sources and reports in online newspapers. Data collection from documentary sources involved the mapping and evaluation of the relevant literature on Nigerian politics and society, particularly those relating directly to the Biafran war and its onset, termination, and post-war policies. The data used were gathered from textbooks, reputable journal articles, and online national newspapers (*The Sun*, *Sahara Reporter*, *Daily Trust*, *The Nation*, *The Cable*, *The Punch*, *Vanguard*, and *Guardian*) for the period—January 2010 to June 2017—in order to draw

out relevant information. These newspapers were selected on the basis of their ease of access, national scope, and relative credibility. The content analysis of media reports, particularly those relating to Biafran separatism in Nigeria's Fourth Republic (1999–2019) was scrutinized to produce data that enabled the mapping of incidents involving Biafran supporters by locations and dates.

The Biafran war

On 15 January 1966, a group of majors, mainly Igbos from the east, attempted to take over the federal government of Sir Abubakar Tafawa Balewa, who was the prime minister at that time. They succeeded in killing Balewa and many other heads of the Nigerian government—including Sir Ahmadu Bello, the powerful premier of the north and, in a dramatic gunfight, Samuel Abiola, the premier of the western region. Within less than two hours, Major-General Ironsi began to organize some resistance to the coup.¹⁰ Many events of that night are still shrouded in mystery and innuendo, but by the next morning, the prime minister of the Federal Republic of Nigeria, along with some chiefs from the eastern and northern regions, was dead. The chief of staff of the army, General Ironsi (an Igbo), gathered troops still loyal to the Nigerian government to end the coup and capture its ringleaders. He also appointed himself as the provisional head of government so as to regain order and stability. Nevertheless, the January coup was perceived as an ethnic coup, led by the Igbo to gain control of the federal government because all the senior military and civilian officials

that were killed were either westerners or northerners, thus increasing the regional strife.¹¹

Moreover, on 29 July 1966, a counter-coup was staged, and Yakubu Gowon became the military head of the State of Nigeria.¹² Shortly after the July coup, the northerners began to take revenge on the Igbo with nearly 50,000 Igbo killed in the months following the coup, and millions returned to their ancestral homes in the eastern province.¹³ Colonel Odumegwu Ojukwu (premier of the eastern region) expelled most northerners from the East while many Yoruba in the West were expressing fear and hatred of Nigerian soldiers from the North, who were called “an occupation force.”¹⁴ By March 1967, one and a half million Igbo had left their homes across Nigeria and returned to the East. Any military personnel who were not from the East were expelled from Eastern Nigeria. In addition, Colonel Odumegwu Ojukwu declared the eastern region of Nigeria to be the Independent State of Biafra after Yakubu Gowon created 12 states out of the existing four regions in Nigeria, consequently stripping the oil-rich Niger Delta and food producing areas from the East.¹⁵ There was a last-ditch effort to maintain unity under the invitation of Kwame Nkrumah, who had just been ousted from Ghanaian presidency, in the town of Aburi in Ghana on 5 January 1967. However, the meeting did not produce any fruitful results. After Ojukwu's declaration of independence of Biafran state at the end of May, there was no pushback from the Nigerian government. It took two months for the Nigerian government to respond to Biafra's declaration

of independence owing to confusion in the Nigerian army.¹⁶

Post-War Policies and Resurgence of Biafran Agitation

The war ended with a promise from the federal government to reconcile the Nigerian state and the Igbo people. Gowon pledged to guarantee the security of life and property of all Nigerians, including the secessionist leaders and their followers.¹⁷ He pledged a policy of reconstruction, rehabilitation and reconciliation toward the victims of the civil war.¹⁸ The subsequent years also saw the introduction of a host of other policies and constitutional decisions aimed at strengthening peace and national unity, as well as guaranteeing political stability.¹⁹ These decisions included, for instance, the creation of new states and local government; strengthening the central government vis-à-vis the federating States;²⁰ the establishment of federal unity colleges in all states in Nigeria to draw students from all parts of the country with a view to promoting positive inter-ethnic relations; combating ethnicity and tribalism by initiating a National Youth Service Corps scheme that involved a mandatory one-year community service programme for all Nigerian graduates; and the adoption of a federal character/quota system to guarantee equal or fair access to state patronage to all segments of the population.²¹

Secessionist Movements across Different Administration in the Fourth Republic

Soon after Nigeria began its democratic rule in 1999, there has been re-emergence of different secessionist

movements. The first attempt was headed by Ralph Uwazurike, a lawyer, when he formed the Movement for the Actualization of the Sovereign State of Biafra (MASSOB).²² Although the strategy adopted by Ralph Uwazurike during his Biafran agitation was peaceful, it was perceived to be aggressive by the Nigerian government, and this led to his arrest on several occasions during the reign of President Olusegun Obasanjo. However, in the early years of the presidency of Goodluck Jonathan (who was adopted by many Igbos as “one of their own,” coming from the neighbouring Niger Delta region of Bayelsa State and who additionally adopted the Igbo name of “Azikiwe”), Biafran agitations continued—though they were muted under the administrations of Olusegun Obasanjo (1999–2007) and Umaru Shehu Yaradua (2007–2010).²³

The MASSOB attracted different people of different tendencies and conflicting ambitions. Therefore, fractionalisation within the movement was only a matter of time. One of the early factions, the Indigenous Peoples of Biafra (IPOB) led by a United Kingdom-based Nnamdi Kanu, started in 2013, “when it was cleared that the Ralph Uwazurike-led MASSOB had been compromised by the Nigerian government and politicians after his incarceration. It was also claimed that IPOB had to revive the “defunct” Radio Biafra as a “platform to educate and sensitize Biafrans who have been biased and made dormant by the propaganda fed to them by the Yoruba dominated media in Nigeria.”²⁴ While Nnamdi Kanu’s pirate Radio Biafra had been operating under Jonathan’s government, it was Buhari’s government

that inadvertently “popularized” him and his innocuous Radio Biafra when the Nigerian Broadcasting Service started drawing the attention of the populace to his controversial broadcast.²⁵ The government inadvertently further increased his popularity when it detained him for nearly two years on several charges that included treason and operating the pirate Radio Biafra. He was refused bail despite several court rulings granting it. His prolonged incarceration turned him into a cult figure among his followers and stoked the ethnic solidarity of his Igbo kinsmen.²⁶ While in detention, he converted to Judaism and began to make even more controversial statements, with his supporters organizing marches and rallies across several cities in Nigeria, Europe, and North America.²⁷

In addition to the MASSOB (which renamed itself Biafra Independent Movement, or BIM) and the IPOB, there are other Biafra separatist groups, such as the Biafra Zionist Movement (BZM), which is led by Benjamin Onwuka. The group—also known as Biafra Zionist Federation—came to public notice on 5 November 2012, when it declared a new state of independence at an event in which at least 100 peaceful protesters were arrested.²⁸ On 8 March 2014, the BZM attacked Enugu State Government House in a bid to hoist the Biafran flag there. It struck again on 7 June 2014, when its members attempted to seize the radio and television stations of the Enugu State Broadcasting Service to announce the secession of Biafra.²⁹ In addition, Onwuka audaciously announced the formation of an “interim cabinet” for Biafra, with himself as the “interim

president” and appointed ministers and top government officials for the said nation (including some from the North Central States of Nasarawa and Niger States)—apparently without consulting those so appointed.³⁰

What Accounts for Spikes and fall in the intensity of Biafran agitation in Nigeria’s Fourth Republic (1999–2019)?

Unbalanced Political Recruitment

The political development in Nigeria since the end of the civil war has polarised the country into a North–South fragmentation, with the South constantly accusing the North of political domination. For instance, the non-resolution of the national question and the vociferous contestations over where the locus of power should be concentrated continues to fuel a politics of anxiety.³¹ The combustible politics of oil—clearly based on inequities, greed for power, the exclusion of certain groups from the gains of oil, and the desire of the competing groups to advance their agenda in relation to the national questions—does pose a direct challenge to the resilience of Nigeria’s federalism.³² Clearly, as presented below, the Igbo are virtually an isolated group that is subtly denied access to the presidential position.

From Table 1, the Igbos (apart from Aguiyi-Ironsi) from the Southeast have not been able to attain the leadership of the country. Before Goodluck Jonathan became the president of the country in 2011, the oil-bearing region, specifically the south-south region, endured systematic resource exploitation at the expense of environmental insecurity, while the south-eastern region experienced relative

Table 1: Political Leaders (Presidents) in Nigeria (1960–2019).

SN	Names of Leaders	Regime	Ethnic Group/Geo-Political Zones	
1.	Sir Abubakar Tafawa Balewa	Civilian	Fulani/North-East	1960-1966
2.	Major General Aguiyi-Ironsi	Military	Igbo/South-East	1966-1967
3.	General Yakubu Gowon	Military	Angas/North-Central	1967-1975
4.	General Murtala Muhammed	Military	Hausa/North-West	1975-1976
5.	General Olusegun Obasanjo	Military	Yoruba/South-West	1976-1979
6.	Alhaji Shehu Shagari	Civilian	Fulani/North-West	1979-1983
7.	General Muhammadu Buhari	Military	Fulani/North-West	1983-1985
8.	General Ibrahim Babaginda	Military	Gyari/North-Central	1985-1993
9.	Chief Ernest Shonekan	Interim	Yoruba/South-West	Aug-Nov 1993
10.	General Sanni Abacha	Military	Kanuri/North-East	1993-1998
11.	General Abdusalam Abubakar	Military	Gyari/North-Central	1998-1999
12.	Olusegun Obasanjo	Civilian	Yoruba/South-West	1999-2007
13.	Alhaji Umaru Musa Yar'Adua	Civilian	Fulani/North-West	2007-2009
14.	Goodluck Ebele Jonathan	Civilian	Ijaw/South-South	2009-2015
15.	Muhammadu Buhari	Civilian	Fulani/North-West	2015- 2019

Source: as compiled by authors.

political marginalisation, i.e., insufficient inclusion in decision making bodies at the highest national levels.³³

Furthermore, Table 2 demonstrates that after the civil war, it took four decades for Igbo men to achieve positions of power within the military, with Lieutenant General Azubuike Ihejirika attaining the position of chief of army staff and Mr Ogbonna Okechukwu Onovo attaining the position of inspector general of the Nigerian police. This suggests that there is an ethnic disparity in the

recruitment of soldiers in Nigeria.

Since the return of democracy, there has been a lopsidedness in political appointments, consequently paving the way for the resurgence of secessionist agenda by the MASSOB led by Chief Ralph Nwazuruike.³⁴ The MASSOB openly canvasses for the disintegration of the federation and periodically engages the Nigerian security agencies in battles. The emergence of the MASSOB is based on the persistence of bitter memories of the civil war, lack of security of Igbo lives and

properties, injustice, hatred, and perceived marginalisation of the Igbos in the distribution of national power and economic resources.³⁵

Non-Compliance with the Zoning Principle

The zoning system or formula refers to the partitioning or division

Table 2: Service Chiefs in Nigeria in the Fourth Republic (1999-2019)

Service Chiefs in the Fourth Republic during Olusegun Obasanjo's Tenure		
Military Positions	Names	Ethnic Groups/Geopolitical Zones
Chief of Defence Staff	General Martin Luther Agwai	Hausa/North-Central
	Lieutenant General Victor Malu	Tiv/North-Central
Chief of Naval Staff	Lieutenant General A. Ogomudia	Soko/South-South
	Major General Martin Luther Agwai	Hausa/North-Central
	Lieutenant General Owoye Azazi	Ijaw/South-South
	Vice-Admiral Ganivu Adekeye	Yoruba/South-West
Chief of Air Staff	Rear Admiral Ibrahim Ogoshi	Igala/North-Central
	Air Marshall Isaac Alfa	Igala/North-Central
Chief of Air Staff	Air Marshall Jhn Wuyep	Berom/North-Central
	Air Chief Marshall Paul Dike	Urhobo/South-South
	General Alivu Gusau (Rtd)	Fulani/North-West
Service Chiefs in the Fourth Republic during Musa Yar'Adua's Tenure		
Chief of Defence Staff	Air Chief Marshall Paul Dike	Urhobo/South-South
	Lieutenant General Owoye Azazi	Ijaw/South-South
Chief of Army Staff	Lieutenant General Luka Yusuf	Bara Kagoma/North-Central
	Major General A.B. Danbazau	Hausa/North-West
Chief of Naval Staff	Rear Admiral Isaiah Iko Ibrahim	North-Central
Chief of Air Staff	Air Chief Marshall Paul Dike	Urhobo/South-South
	Air Marshall Mohammed Umar	Hausa/North-West
	Air Marshall Oluseyi Petirin	Yoruba/South-West
National Security Adviser	General Owoye Azazi	South-South
Service Chiefs in the Fourth Republic during Goodluck Jonathan's Tenure		
Chief of Defence Staff	Air Marshall Oluseyi Petirin	Yoruba/South-West
	Air Marshall Ola Saad Ibrahim	Yoruba/North-Central
	Air Marshall Alex Badeh	Fali/North-East
Chief of Army Staff	Lieutenant General Azubuike Ihejirika	Igbo/South-East
	Lieutenant General Kenneth Minimah	Ijaw/South-South
Chief of Naval Staff	Admiral Ola Saad Ibrahim	Yoruba/North-Central
	Vice Admiral Joseph Ezeoba	North-Central
	Admiral Usman Jubrin	Igala/North-Central
Chief of Air Staff	Air Marshall Alex Badeh	Fali/North-East
	Air Vice Marshall Adesola Amosun	Yoruba/South-West
National Security Adviser	General Owoye Azazi	Ijaw/South-South
	Colonel Sambo Dasuki	Fulani/North-West
Service Chiefs in the Fourth Republic during Mohammed Buhari's Tenure		
Chief of Defence Staff	General Abayomi Olorusakin	Yoruba/South-West
Chief of Army Staff	Lieutenant General Tukur Buratai	Kanuri/North-East
Chief of Naval Staff	Rear Admiral Ikot-Ete Ekwe Ibas	South-South
Chief of Defence Staff	Air Marshall Sadique Abubakar	Fulani/North-East
National Security Adviser	Major General Bahagana Monguno	Kanuri/North-East

Source: as compiled by authors.

of a country into different electoral zones in order to rotate major political offices, opportunities, and benefits, either political or socio-economic among the six geo-political zones in Nigeria. This is aimed at ensuring effective political equity and representation among different regions and states at the federal, state, and local level of administration in Nigeria.³⁶

Table 3 depicts how zoning was practiced from 1999 to 2007. The top political positions were equally distributed among the six geopolitical zones in Nigeria, the presidency went to the Southwest and the vice-presidency was zoned to the Northeast during People Democratic Party (PDP)'s tenure. The position of the senate president was zoned to the Southeast from 1999 to 2007. As such, the Igbo people were equally represented in Nigeria as occupying the number three position in the country. Their representation as occupying the number three position (the seat of the senate president) showed that they were not excluded in the administration. From 1999 to 2007, zoning ensured that the major ethnic groups in Nigeria were equally represented in the political recruitment and appointments. The top positions, such as the president, vice president, and senate president, were occupied by Yoruba, Hausa-Fulani, and Igbo ethnic nationals. Even the minorities (South-South and North-Central) were equally represented with the positions of secretary to the federal government and chairman of the then ruling PDP, respectively.

There was a shift in power from the South to the North when the seat of the president was zoned to the North in 2007, and this brought in

President Musa Yar'Adua from the Northwest and the vice president from the South-South. During this period, the southeast geopolitical zone was represented with the position of the chairman of the then ruling PDP and this gave them a sense of belonging.³⁷ The political power was again shifted from the North to the South when the president of the country, Yar'Adua, died on 5 May 2010, and his death brought in his vice president, Goodluck Jonathan, who hailed from the South-South. President Jonathan later contested in 2011 for the position of president and won the general elections that ushered him into power (2011–2015). His administration appointed an Igbo man from the southeast geopolitical zone as the secretary to the federal government of Nigeria. During President Jonathan's leadership, the issue of agitating for the creation of the Republic of Biafra was not in place. Although, the zoning principle of Nigeria's presidency was challenged by the Northern political class that opined that the position of president should have remained in the North from 2007 to 2015, as witnessed between 1999 to 2007 when political power was residing in southwestern Nigeria. The zoning, which could have granted rotating presidency between the North and South in Nigeria, was truncated. In 1999, the presidency went to the Southwest, and they ruled from 1999 to 2007, during which the Southeast was represented by occupying the seat of the senate president. In 2007, the Southeast occupied the seat of chairman of the PDP, which was the period from 2007 to 2011. In 2011, the Southeast occupied the seat of secretary to the federal government

of Nigeria, and that period lasted until 2015. In 2015, there was change in political power from the PDP to the All Progressive Congress (APC) when President Goodluck Jonathan was defeated in the elections by the APC candidate, General Muhammadu Buhari, who took over the presidency on 29 May 2015.³⁸ Table 3 reveals that the position of president went to the Northwest, the vice president went to the Southwest, and the office of senate president was occupied by the North-Central. Both the positions of speaker of the Federal House of Representatives and secretary to the federal government went to the Northeast. The South-South region occupied the seat of the chairman of the APC. This development became clear to the people of the Southeast when they lost out of the political equation that distributes top positions. Hence, the issue of marginalization of the Igbos in Nigeria's political system came in place.

Agitation for Biafra Separatism and the Nigerian state

Having examined the pattern of political recruitment, it is observed that during administrations when there is a high feeling of collective victimization and low sense of inclusion in political appointments and socio-economic opportunities, separatist agitation tends to be very high. Conversely, administrations with a high sense of inclusion in political appointments and socio-economic opportunities and low feelings of collective victimization see the lowest levels of separatist agitations. For instance, after the election of Goodluck Jonathan as the president in 2011, there was a sharp reduction in the Biafran separatist agitation. To

be sure, the Igbo from the Southeast voted massively for the PDP, which produced Jonathan as its presidential candidate.¹

As a form of reward, the Igbo people featured prominently in the administration of Goodluck Jonathan as evident in Table 3. The Southeast, as compared with other regions, felt a high sense of inclusion as they were well represented in the composition of both executive and legislative positions.

However, following the defeat of Jonathan in the 2015 election and the assumption of office by Muhammadu Buhari, the Southeast experienced a low sense of inclusion in the administration. As revealed in Table 3, no Igbo person holds a senior position, such as president, vice president, senate president, speaker of the Federal House of Representatives, secretary to the federal government, or chairman of the ruling party. Although, apart from the position of president, the rest of the positions mentioned were held by Igbo people from the Southeast between different administrations in the Fourth Republic. All in all, such exclusion of the Igbo representatives within the top positions aggravates the protest and agitation for the sovereign state of Biafra as the people from the zone feel excluded and victimized.

Indeed, the reoccurring agitation of Biafra serves as a glaring indication of the failure of post-war settlement in Nigeria, which has serious implications on political stability and democratic consolidation. With separatist

i According to Oni 2016, out of 2,663,254 total votes in the 2015 presidential election from the Igbo-dominated South-East; All Progressive Congress (Muhammadu Buhari) scored 198,348, whereas PDP (Goodluck Jonathan) scored 2,464,905.

agitations simmering in other parts of Nigeria, the persistence of the agitation for Biafra could become a rallying point for groups questioning the Nigerian project. Biafra separatism can produce a snowball effect, motivating group after group to demand for greater autonomy or separation. This might create a basis for democratic breakdown. There have been attempts in the past by pro-Biafra separatists to connect their struggle to the struggles of other groups that are dissatisfied with the Nigerian state. Such alliances have given rise to new groups challenging the Nigerian project and agitating for separation.

A good example of such groups is the Lower Niger Congress (LNC), which describes itself as “a platform by which willing peoples of the Ethnic Nations of the old Eastern Region and the old Mid-Western Region, seek to federate themselves into a cohesive, values-driven, systems-based political bloc.”³⁹ In 2015, the LNC issued a five-point mandate calling for, among other things, a referendum to decide whether the people of the two regions would wish to continue to be part of Nigeria.⁴⁰ As separatist agitation intensifies, it is likely that separatist groups will proliferate. The combined activities of these groups could raise

Table 3: Zoning of Political Offices in Nigeria (1999-2019)

Zoning of Political Offices in Nigeria (1999-2007)		
Political Offices	Geopolitical Zones	Duration
President	South-West	1999-2007
Vice-President	North-West	1999-2007
Senate President	South-East	1999-2007
Speaker of the Federal House of Representative	North-West	1999-2007
Secretary to the Federal Government	South-South	1999-2007
Chairman of People Democratic Party (PDP)	North-Central	1999-2007
Zoning of Political Offices in Nigeria (2007-2011)		
President	North-West	2007-2011
Vice-President	South-South	2007-2011
Senate President	North-Central	2007-2011
Speaker of the Federal House of Representative	South-West	2007-2011
Secretary to the Federal Government	North-East	2007-2011
Chairman of People Democratic Party	South-East	2007-2011
Truncated Zoning Arrangement of Political Offices in Nigeria (2011-2015)		
President	South-South	2011-2015
Vice-President	North-West	2011-2015
Senate President	North-Central	2011-2015
Speaker of the Federal House of Representative	North-West	2011-2015
Secretary to the Federal Government	South-East	2011-2015
Chairman of People Democratic Party	North-East	2011-2015
Non-usage of Zoning Arrangement of Political Offices in Nigeria (2015)		
President	North-West	2015-2019
Vice-President	South-West	2015-2019
Senate President	North-Central	2015-2019
Speaker of the Federal House of Representative	North-East	2015-2019
Secretary to the Federal Government	North-East	2015-2019
Chairman of People Democratic Party	South-South	2015-2019

Sources: Terwase, Abdul-Talib & Zengeni (2015) and Awopeju, Adelusi & Oluwashakin (2012).

the risk of inter-ethnic disaffection, destabilize Nigeria's fledgling democracy and further deepen the crisis of confidence among government and ethnic groups across the country.

Policy Implication and Recommendation of the Study

Although the agitation for the state of Biafra was consistent in all the administrations in the Fourth Republic, there was a noticeable fall in its intensity during President Jonathan's administration, only to assume a frightening spiki since the advent of President Buhari's administration. The question of inclusion and marginalization comes to play. The southeast region was less represented in the administration of President Buhari than any other administration in the Fourth Republic. Hence, Biafran supporters tend to pose their agitation as a response to the exclusion in political appointments. To address this kind of sentiment, a well-thought-out national reconciliation programme needs to be established. The purpose of the programme is to heal the wounds of the past and bring back all those who feel a sense of exclusion in the Nigerian state. In addition, the programme should not only provide a platform for pro-Biafra groups to express their grievances, so the government can channel them to the appropriate quarters for redress but also help in formulating mechanisms that will be used to determine the effectiveness of this national reconciliation programme after its implementation.

Conclusion

Evidently, the resurgence of Biafran agitation under the democratic regime

of President Muhammadu Buhari substantiates the perpetual reminiscences of the Biafran heroes who fought to liberate their people under the rubric of self-determination. But the recent agitation for a sovereign state of Biafra is attributed to the perceived underrepresentation of the Igbos in the President Buhari-led government. However, it must be noted that it has become a trend in Nigeria for losers in general elections to play on primordial sentiments to make things difficult for the new administration. Thus, the present agitation for the sovereign state of Biafra lies not only in the political calculation of those who control the Nigerian state but also in the lingering socio-economic discontent among the people of Nigeria.

The study found marginalization and systematic "minoritization" of the Igbo domiciled in the Southeast geopolitical zone to have been elevated to an official state policy. Nonetheless, the study shows that while certain actions, inactions, and policies of the Nigerian government, which are perceived to be targeted against the Igbos, have created the feelings of collective victimhood among the people, and which are often exploited to mobilize the people for separatist agitations. The study notes, therefore, that the feeling of relative deprivation and discontent with the system is not necessarily a product of collective victimization but a fallout of the inability of the government to secure the lives and property of the masses.

Endnotes

- 1 "Conflict Briefing: Biafra Agitation and Ethno-Political Polarization in Nigeria," Fund for Peace, retrieved 20 June 2019, <https://fundforpeace.org/2017/11/01/conflict-briefing-biafra-agitation-and-ethno-political-polarization-in-nigeria/>
- 2 "Conflict Briefing."
- 3 "Two Policemen, nine others die in pro-Biafra protest in Onitsha," *The Nation*, 3 December 2015, retrieved on 20 July 2019, <https://thenationonline.net/two-policemen-nine-others-die-in-pro-biafra-protest-in-onitsha/>
- 4 "Two Policemen, nine others die"
- 5 Kenneth Omeje, "'Enyimba Enyi': The Comeback of Igbo Nationalism in Nigeria," *Review of African Political Economy* 32, no. 106 (2005): 630–636.
- 6 Charles Onyekamuo, "MASSOB Releases List of Slain Members," *All Africa*, 13 May 2008, <https://allafrica.com/stories/200805130207.html>.
- 7 "MASSOB Expels Uwazuruike, picks new leadership," *The Nation*, 30 November 2015, retrieved 20 June 2019, <https://thenationonline.net/massob-expels-uwazuruike-picks-new-leadership/>.
- 8 Tony Adibe, "MASSOB is dying, but pro-Biafra crusade spreads dangerously," *Daily Trust*, 24 October 2015, accessed 30 July 2019, <https://www.dailytrust.com.ng/massob-is-dying-but-pro-biafra-crusade-spreads-dangerously.html>.
- 9 Conor Gaffey, "With Biafra and oil Militants, Nigeria's Security Troubles Are Heading South," *Newsweek*, 2 February 2016, accessed 15 August 2019, <https://www.newsweek.com/biafra-and-oil-militants-nigerias-security-troubles-are-heading-south-422042>.
- 10 Zdenek Červenka, *The Nigerian War, 1967–1970: History of the War, Selected Bibliography and Documents* (Frankfurt am Main: Bernard & Graefe, 1971), 33.
- 11 John de St. Jorre, *The Brothers' War: Biafra and Nigeria* (Boston: Houghton Mifflin Company, 1972).
- 12 Major Abubakar A. Atofarati, "The Nigeria Civil War, Causes, Strategies, And Lessons Learnt" (college paper, US Marine Command and Staff College, 1992).
- 13 Červenka, "The Nigerian War, 1967–1970."
- 14 Olusegun Obasanjo, *My Command: An Account of the Nigerian Civil War* (Oxford, Ibadan: Heinemann Educational Books Ltd.), 1980.
- 15 Atofarati, "The Nigeria Civil War."
- 16 Atofarati, "The Nigeria Civil War."
- 17 Yakubu Gowon, "Reflections on the Nigerian Civil War: Some Preliminary Critical Notes," in *The Nigerian Civil War and Its Aftermath: View from Within* (University of Ibadan: Programme on Ethnic and Federal Studies, 2001), 17.
- 18 Gowon, "Reflections on the Nigerian Civil War."
- 19 Rotimi Suberu, "States' creation and the political economy of Nigerian federalism," *Federalism and Political Restructuring in Nigeria*, ed. 'Kunle Amuwo (Ibadan, Nigeria: Spectrum Books Limited and IFRA), 1998.
- 20 Suberu, "States' creation."
- 21 David Enweremadu, "Post-Civil War Reconstruction and the Challenge of National Unity in Nigeria," in *The State in Contemporary Nigeria: Issues, Perspectives and Challenges*, ed. J. Shola Omotola and Ikenna Mike Alumona (Ibadan: John Archers Publishers, 2016), 296–297.
- 22 Felix Nnamdi, "BIAFRA: Undying Passion For Secession," *The News*, 23 June 2014, accessed on 30 July 2019, <http://thenewsnigeria.com.ng/2014/06/biafra-undying-passion-for-secession/>.
- 23 Nigerian Outlook, 23 February 1962
- 24 "Nigeria: The Indigenous People of Biafra (IPOB), including objectives, structure, activities, relations with other Biafran independence groups, and treatment by authorities (2014–October 2016), Canada: Immigration and Refugee Board of Canada, 10 November 2016, accessed 20 July 2019, <https://www.refworld.org/docid/5844003b4.html>.
- 25 "Nigeria: FG – We have jammed Radio Biafra signals," *Daily Trust*, 15 July 2015, accessed 20 July 2019, <https://allafrica.com/stories/201507150506.html>.
- 26 Nicholas Uwerunonye, "How IPOB Leader, Nnamdi Kanu, Became Buhari's Next Big Headache," *Independent*, 29 April 2017, accessed 25 June 2019, <http://independent.ng/nnamdi-kanu-ipob-leader-became-buharis-next-big-headache/>.
- 27 "Kanu shuts down Ebonyi," *The Sun*, 25 July 2017, accessed 30 July 2019, <https://www.sunnewsonline.com/kanu-shuts-down-ebonyi/>.
- 28 Ludovicca Iacino, "Nigerian Separatist Movement: Who are the Biafra Zionists?" *International Business Times*, 17 June 2014, accessed 30 July 2019, <http://www.ibtimes.co.uk/nigerian-separatist-movement-who-are-biafra-zionists-1453085>.
- 29 Tony Edike, "Pro-Biafra groups bid to seize Enugu radio, TV stations foiled," 6 June 2014, accessed 25 June 2019, <http://www.vanguardngr.com/2014/06/pro-biafra-groups-bid-seize-enugu-radio-tv-stations-foiled/>.
- 30 "Biafran group declares secession, names Utomi, Soludo, Gana, others in 'cabinet,'" *The Punch*, 1 August 2017, accessed 30 July 2019, <https://punchng.com/biafran-group-declares-secession-names-utomi-soludo-gana-others-in-cabinet/>.
- 31 Adefemi Isumonah, "Biafra: A Failed National Project," in *The Nigerian Civil War and Its Aftermath*, ed. Eghosa E. Osaghae, Ebere Onwudiwe, and Rotimi T. Suberu (Ibadan: John Archers Publishers, 2005), 197.
- 32 Isumonah, "Biafra: A Failed National Project."
- 33 Ebere Onwudiwe and Rotimi T. Suberu, eds. *Nigerian federalism in crisis: Critical perspectives and political options* (Ibadan: Programme on Ethnic and

Federal Studies, Department of Political Science, University of Ibadan) 2005.

34 Chinua Achebe, *There was a country: A personal history of Biafra*, (New York: Penguin Books) 2013.

35 David U. Enweremadu, "Post-Civil War Reconciliation and the Challenge of National Unity in Contemporary Nigeria," *Ibadan Journal of Peace and Development* 6 (2015), 216–229; Emefiena Ezeani, *In Biafra Africa Died: The Diplomatic Plot* (London: Veritas Lumen Publishers) 2013.

36 Vincent S. Kabuk, "Understanding the Politics of Zoning System in Nigeria: A Purview of Rawls' Complex Egalitarianism," *Bassey Andah Journal* 7, no. 8 (2015): 139–153; Anthony A. Akinola, *Rotational Presidency* (Ibadan: Spectrum Books Limited), 1996.; Terna Iorkyosu, "The Principle of Zoning and Its Consequences on Political Development in Nigeria," *Katsina-Ala Multidisciplinary Journal* 2, no. 1 (2104): 51–60; Isaac Terwase, Asmat-Nizam Abdul-Talib, and Knocks Tapiwa Zengeni, "Conflict Resolution: The Truncated Zoning Arrangement and the Buhari Political Tsunami in Nigeria," *Journal of Government and Politics* 6, no. 2 (2015): 248–259.

37 Terwase, Abdul-Talib, and Zengeni. "Conflict resolution."

38 Terwase, Abdul-Talib, and Zengeni. "Conflict resolution."

39 "Countrywide Rejection of the Unitary 1999 Constitution as basis of Nigeria; Options and Processes for Reconstruction: Confederation or Independent Units; Amendments or Sovereign Conference," Lower Niger Congress (Statement issued in Port Harcourt, 20 December 2012).

40 Godwin Onuoham "Contesting the Space: The 'New Biafra' and Ethno-Territorial Separatism in South-Eastern Nigeria," *Nationalism and Ethnic Politics* 17, no. 4 (2011): 402–422.

Patrick Loch Otieno (PLO) Lumumba

Narrator

Memme Onwudiwe—Harvard Kennedy School

Guy Josif—Harvard Extension School

Interviewers

The Africa Policy Journal sat down with Patrick Loch Otieno (PLO) Lumumba for an interview during his recent visit to Harvard Law School for an event with the Harvard African Law Association. Lumumba served as the Director of Kenya Anti-Corruption Commission from September 2010 to August 2011 and has been director of The Kenya School of Laws since 2014.

APJ: Hello, my name is Memme Onwudiwe.

APJ: And I'm Guy Josif.

APJ: And we are with the *Africa Policy Journal*, and today we have the honor of sitting down with and asking some questions to PLO Lumumba.

LUMUMBA: Thank you very much

for the invitation. I'm glad to be here to share this conversation with you.

APJ: That's great. Guy, would you want to start us off?

APJ: Yes, we are really honored and pleased to have you here with us. Please tell us about yourself and how you got to where you are today? What was the motivation that really gifted you moving towards the success that you already accomplish and still advocating?

LUMUMBA: I am a Kenyan trained as a lawyer. I've taught law for over 30 years now and practiced law for nearly 32 years. I have a keen interest in various areas of law. I've been a keen student of constitutional law, an area in which I've written—equally keen interest in human rights and

humanitarian law. And curiously, I've also started the Law of the Sea, which was the subject of my PhD studies at the University of Ghent in Belgium.

But recently—of course, recently to me—in the last five years, I've spent a lot of energy and time talking about Africa and the different dimensions of development in the African continent. And I think that is becoming a major preoccupation in addition to my philanthropic activities.

APJ: *That's great to hear. And just to kind of key in on some of your work, particularly, you know, past roles. You were the director of Kenya's Anti-Corruption Commission, and many believe that corruption is somewhat embedded in collective norms in Africa, while others think it might be a carryover from colonialism and others even say it's an institution. I was just hoping you could comment a bit on why corruption is becoming such an intractable paradox, it seems, for Africa?*

LUMUMBA: My view is that the modern African state, as constituted, has provided a fertile ground for corruption, particularly by those who are in the political arena. And to the extent that we have made the pursuit of political office to be very expensive and therefore attracting individuals who want to use political office for personal gain, it has become the culture that you go into political office not to serve but to use the office for personal benefit. And all these intertwined with certain traditional practices, which were very innocent.

In many African societies, if somebody did something that you wanted to appreciate, you'd possibly give them a goat or give them rum or give them something. But what has happened is that African culture has now been perverted by the political class, and the provision of public service or other corruption has now been made a condition precedent to the performance of services which ought to be rendered without pay.

And I have, at a different setting, described this as the absence of political hygiene. The absence of political hygiene means that there are no moral standards against which political leaders are measured. And this, coupled with the ethnicization of politics and nepotism, have served and created a fertile ground for corruption. The net effect is that Africa suffers at all levels.

How politics is rotten in many countries. The provision of critics of services such as education and health and agriculture has continued to suffer. And as Kofi Annan famously said, "Corruption undermines democracy." And to the extent that it undermines democracy, it creates a culture of anarchy and despondency. And the consequence is that we have underdeveloped states in Africa which continue to play up to punch below the economic and political weight to the detriment of the peoples of Africa.

APJ: *With independence came a lot of hope, optimism, and belief that Africa would rise from the ashes. Unfortunately, there is no hope. Where did we go wrong from that point?*

LUMUMBA: You are right. That's when African countries regained their political independence in the early 1960s, exempting Ghana in 1957 and the three countries which were never colonized such as Ethiopia. And of course, the unique creation of Sierra Leone and Liberia, there is a sense in which African countries have not fulfilled the goals that were identified as the basis of the struggle for independence. And these were very clear goals.

The people wanted to ensure that they govern themselves so that they could provide education, they could provide health services, they could improve infrastructure, they could improve agriculture, and create opportunities for young men and women to create a developmental state.

And when one listens to African leaders at that time, and you would allow me to mention only a few, because they were the most eloquent and most passionate in this regard: people like Ghana's Kwame Nkrumah; Kambarage of Tanzania; Patrice Émery Lumumba, who did not live very long, of the Democratic Republic of Congo; Modibo Keita of Mali, Secretary of Guinea; and even Kenya's Jomo Kenyatta. And at that time, even people like Apollo Milton Obote—people can go on and on.

There was a sense in which there was passion, and passion was informed by the recognition that Africa has rich resources. At that time, our human resources were not very well developed. But subsequently you can see in the early years, in the arena of

education, universities were improving or emerging from all parts of Africa. If you are not talking about Fourah Bay in Sierra Leone, you are talking about Ibadan in Nigeria. Or Makerere in Uganda or even in the upper-side South Africa, universities such as Fort Hare. There is a sense in which Africa was growing in this sector of education.

Even in the health sector. One can see that the diseases which were debilitating are not dealt with through deliberate effort. So, vaccination for polio was being dealt a death blow as well. Waterborne diseases such as typhoid and bilharzia, the ever-present malaria.

In the area of agriculture, we could see the production of both food crops and commercial crops. And if you talked about countries such as Kenya, coffee was booming. In Ghana, cocoa was booming, as in Cote d'Ivoire and many other things. But then the politics of South of Africa was very quickly disrupted. Many commentators, of course, will have different views on this. There was the neo-colonial project.

No sooner had African countries settled than we started seeing the subterranean hands of the asked white colonizer. And you see it in countries such as the Democratic Republic of Congo or Congo Kinshasa, as it was then famously known with the assassination of Patrice Lumumba. You see the assassination of Sylvanus Olympio in Togo.

And after that, very quickly, we see

the era of coup d'états. Some of the chief architects of the new Africa, such as Kwame Nkrumah, he's overthrown. We see Modibo Keita is overthrown, Nnamdi Azikiwe in Nigeria—and those disruptive activities have to undermine whatever growth that was realized. And then you started to see how often military leaders who had no idea about governance—and subsequently because they were politically bankrupt—they started the process of ethnicization of politics. And this was not the preserve of military leaders, even those who are not of a military background, in order to survive and to perpetuate their hegemony, started the ethnicization of politics.

So that African leaders and African peoples became very easy to divide. And the reason why countries such as France, the United Kingdom, Portugal, Belgium, and subsequently countries such as the Soviet Union and even the United States of America, then converted Africa into a theater, if you may, of ideological competition. And when this competition was at its height, many things suffered with the consequence that we lost direction. And when we lost direction, then we were engaged in meaningless conflicts. And you will remember there were conflicts almost in every other part of Africa. There were conflicts, either of high intensity or low intensity.

We had the civil wars in the Democratic Republic of Congo. We had secessionist wars. We had coup d'états and insurrections and all these, in a nutshell, did undermine

and I dare say continue to undermine the development of Africa and the promises that we made to ourselves in 1963. You do not disobey Ethiopia. And one can nostalgically remember the exaltation of Kwame Nkrumah with the leaders in 1963 that we must unite in order to realize the gains of independence. Of course, nobody heeded Kwame Nkrumah. And today we are beginning to realize that he had a vision. Which, if it had been embraced, possibly Africa would have been in a better place. And we can see in your own country, Sudan. You've seen some of the wars that have continued to take place initially, Dafur. You've seen what has happened after the breakaway of South Sudan. You've seen the kind of governance that we have had in Central African Republic, the activities in Mali, and the continued conflicts in places such as Somalia.

So one can give numerous examples, but it is important to also recognize that there are a number of African countries which have done well. And we must never forget to mention this because it is very easy to identify the negatives without appreciating the positives. Countries such as Botswana, which in 1966 were backward countries, have succeeded in creating a democratic environment in which the resources of the people are utilized for their benefit. To a certain extent, even the countryside, just Kenya, which has had political problems, has continued in some way to ensure that the social fabric has not been torn. Countries such as Tanzania off the continent, countries such as Mauritius—and one can go on and on.

There are countries which continue to do well; in the recent past, Rwanda, Tanzania, and even Uganda after the fall of Idi Amin in 1986. Today, of course, some may say that the Ugandan president has overstayed his welcome, but there is a sense in which during the first 10 years there was a good repair job that was done. And all these must be seen in the context of global politics. The essence of which is that they are countries which on a daily basis are planning on how to utilize the resources of Africa for their benefit and, even if it is not their design, to the detriment of Africa.

APJ: *That's very powerful and kind of shifting focus, as I think you give it to the modern relations of Africa, to outside states. China's form on, you know, China-Africa cooperation in its most recent iteration, it seems to have touched on issues of peace and security that are outside of its traditional focus on simply industrial and economic considerations. What are your thoughts on this and kind of the development of the relationship between Africa and China more generally?*

LUMUMBA: China is a country that we have observed during our lifetime arising from what one may have described as a third-world country and becoming the second most powerful economy in the world and the factory of the world in many areas. And the net effect with the population that is in excess of \$1 billion is that it has great appetite for resources on Africa. It is the home of resources, some may claim inexhaustible,

but there are no resources that are inexhaustible.

And the Chinese, in my view, have made a deliberate effort to target Africa specifically, ostensibly for purposes of a trade which one cannot quarrel about. But we see their presence in Europe and in the United States of America. But these are strong economies which in many ways have immunized themselves or are capable of immunizing themselves from the assault of China. But one of the most curious things now is that China is beginning to go beyond the boundaries of trade as we know it. And he's saying to the extent that you do not have the capacity to protect your territorial sea, to the extent that you do not have the capacity to protect your exclusive economic zone.

We have the capacity and the desire and the ability and the willingness and indeed the appetite to assist you in that regard. I find that very dangerous. What that means is that China will now want to have bases off the coast of Senegal. They want to have bases off the coast in the Gulf of Guinea. They will want to have bases off the Mozambique Channel. They want to have bases in Djibouti and ultimately to want to have inland military facilities in the continent of Africa. When you do that, then Africa immediately becomes a theater of potential war in the global sense. And I think that is incumbent upon Africa. And when I talk about Africa, I must live with the fact that Africa is composed of 55 countries. And I'm also alive to the fact that the Moroccans don't agree that Sahrawi is a country.

And therefore, if you ask them, they'll say 54 countries. But in high diversity, Africa also has the ability to use our diversity to good effect. And because China is very powerful, it is important that African countries negotiate with China.

In my view, at certain levels, continentally under the aegis of the African Union and in certain cases regionally under the aegis of SADC, or East African community or Central Africa, or West Africa. In that way, they have no one population. And secondly, they have the economic counterweight to ensure that negotiations with China between equals to the extent that they can claim equality. But if individual countries are left to negotiate with China bilaterally, many African countries are economically very weak. And because they are weak and they don't have resources or remain producers of primary goods, it is very easy to twist African politicians who, because of short-term political interests, will want to see immediate gains for the sake of elections without considering the generational impact of the activities under us. Then China can be very dangerous going forward, and the sooner we realize that, the safer in order to redefine our relationship and interaction with China.

APJ: Speaking about China, recently Africa was visited by the German Chancellor as well as the British Prime Minister. There had been an argument about this being a scramble for Africa by the West because of the fear of tennis implants. Is that the case? What is your take on

that? How does that, Pete, fit in your "Africa on the dinner table"?

LUMUMBA: You know, there is a sense in which in answering that question, one must go into the arena of speculation. But there is also a sense of déjà vu—déjà vu in the sense that when one reads history, one can see that in Berlin in 1884, it is the same countries which congregated and partitioned Africa. And one can see that that appetite has remained. And it is not lost on me that I think in the month of August or in the month of September, we had a flurry of visits to the continent of Africa. We saw the British Prime Minister. We saw the French prime minister. We saw the German Chancellor. We saw the Chinese president. All visiting different countries of Africa from the west to the east, from the south to the north. And the whole idea, which is innocent on its face, is that we are creating bilateral relationships for purposes of trade.

The danger is that if we enter into these agreements without clear scrutiny, what begins innocently as trade may metamorphosize into something else to the detriment of the continent. And I have learned not to blame all these players. I don't blame the British. I don't blame the French. I don't blame the Germans. I don't blame the Americans. I don't blame the Chinese. I blame us, particularly our political leaders. Oh, let me not use the word *leaders* or *politicians*, because leadership is a totally different ballgame. All politicians have demonstrated—at least the bulk of

them—that their strategic engagement, if there is strategy at all in the manner in which they engage, is something that does not look to the future.

So that when you look at some of the agreement that we are entering into with China, the loans that we are receiving from China to deal with infrastructural development, some of which are not very well thought out. If you look at the cost of borrowing from China and you look at the impact on the real soft issue needs of the people, and when I talk about soft issue needs of the people, I'm talking about what are you doing in the sector of education, in a manner that creates opportunities for young men and women to acquire a set of skills that will not only confine them to the employment market but enable them to invent onto into innovate. I'm looking at about the agriculture sector. We are still selling primary goods, and I would want to see engagement that allows for transfer of technology so that in the next few years we are not selling coffee beans. We are not selling minerals like coltan or rare art. We are not selling uncut diamonds. We are not selling raw gold. We are not importing toothpicks from China. We are not importing eggs from Brazil. We are not importing noodles from Italy. We are not importing secondhand clothes from the United States of America or Europe. I want to see these factories being set up in Africa so that we have opportunity of improving their sectors and we can strengthen African countries and strengthen African

economies in a manner that they are able to engage. And when they sit at what I've called the dinner table ad nauseum. They are there as diners not as food to be eaten or as waiters to serve others.

APJ: And thank you so much for that visual. And just one last question. This actually speaks a little bit to what you were just talking about. Ali Mazrui once said, "Africa produces what it does not consume and consumes what it does not produce." I'm wondering in this moment we live in with the differing scenes of African nations signing the CFTA, which is an iconic moment also, you know, all going to China for the forum on China, Africa cooperation—I'm wondering that, in the sense of Ali Mazrui's paradox, do you think Africa is going in the right direction in solving it?

LUMUMBA: When Ali Mazrui made his famous documentary, Africa: Africa Creepo Heritage, I think he identified quite a number of weak areas which continue to undermine the continent. And that famous quote is one that stands out because Ali was concerned that Africans continued to import or to export primary goods and to import goods that had been manufactured elsewhere. And I believe that there is no debate now that that is part of the reason why Africa continues to be underdeveloped. If you want to measure Africa against some of the indices that we have had in the recent past, we did not—apart from Rwanda and I think Botswana—many African countries did not

achieve the Millennium Development Goals. We now have the Sustainable Development Goals, but we know that in countries where there is conflict, such as the Democratic Republic of Congo, and only in the last few days we have seen nearly 180 thousand Congolese being expelled from Angola back to Congo. And we have seen similar activities against Nigerians in Ghana and in many countries. This is happening. The net effect is that Africa has come to recognize that she must do things herself. And recent developments. And when I talk about recent, I'm talking about the activities of the African Union and Agenda 2063 in the year 2013.

And some of the things that the seven pillars say is that in order for African countries to get into the orbit of mid-level development, there are a number of things that must be done. You've got to silence the guns. And when you silence the guns, one might not see the direct relationship between that and other economic activities. Where there is conflict, there is no agriculture, where there is conflict, there is no economic activity.

And number two, they say, among other things, is that we must also ensure that we remove foreign interference by the year 2025. Foreign interference means, among other things, from where I sit, that you allow countries which do not have clear interests in the long-term health of your country to run your industries, and that when you engage with them, you engage in a manner that is mutually beneficial. And when

one sees a number of activities in Africa, one is beginning to see that there is some movement. The movement may not be dramatic. It may not be as fast as we desire. But look at East African community. Some of the things that we have seen under the Treaty of the East African Community is the removal of tariff and non-tariff barriers. The agreement that certain goods must not be imported into that region. And if they are imported, then there must be appropriate tariffs to ensure that you protect local industry. You see that under COMESA, you see that under the ECOWAS. You see that under SADC, you see that under Central African Republic. So that in terms of the infrastructure, the economic infrastructure, African countries have established them.

But what continues to undermine those things is the quality of politics. One can see in a number of African countries that why we have sound policy documents, while we have these visions 2020, Vision 2025, Vision 2030, Africa, and Agenda 2063, the political class. On the other hand, doing things that undermine our very journey to the chosen undesired destination. And it is now incumbent upon African intellectuals, upon African men and women in the private sector, upon Africans who are the electorate, to make demands of their political leadership.

History has demonstrated that people are led in the direction that they demand. And I'm submitting to us that we of the African stock are largely very docile. And because of

what docility, the political class, most of whom are bankrupt, do things that don't actually help the continent. And the sooner we recognize that democracy is oiled and underpinned by the awareness of the population, the safer we are. If we don't, then Africa will continue to degenerate. And what you very early on describe as the scramble for Africa will not only be a scramble, but a new partition of Africa.

APJ: Thank you very much for your time today. We really appreciate.

LUMUMBA: Thank you very much. God bless you. And I wish we work towards the growth of Africa. It's not something that will be achieved in 10 years, in 20 years, in 100 years. But our joy is that we have planted the seed.

ACKNOWLEDGEMENTS

We would like to recognize and thank, on a non-exhaustive basis, the people who helped produce this year's journal. We thank Martha Foley, assistant director of student services, who provides endless support for our work. We would also like to thank the Center for African Studies, the Mossavar-Rahmani Center for Business and Government, the Kennedy School Student Government, the Malcolm Wiener Center for Social Policy, and the Africa Caucus at the Harvard Kennedy School for their financial support and encouragement.

We also thank Nicole Lewis, our copy editor at the Kennedy School, and Cerise Steel, our designer, for their work to ensure the journal came together to meet the standards of excellence of HKS student journals. Last but not least, we would like to thank all of our contributors who have turned their passions and research on Africa-related topics into well-formed and articulate academic articles and opinion pieces that we are proud to share with our readers.