Six Trends Shaping the Human Rights and Business Agenda in Africa: Observations from The UN's Africa Regional Forum

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The UN Regional Forum covered a huge range of topics, and I'm not going to try to summarise everything I took away from the presentations and the conversations between them. Instead, I want to highlight six themes that stood out to me as crucial for the human rights and business field to address in the coming year.

Expect More Growth and Investment

Let's get the obvious stuff out of the way: Over the past 30 years, Africa has enjoyed a near-universal increase in lifespans, literacy and access to basic services. With some notable exceptions, authoritarian regimes have either fallen or been significantly weakened, and those that remain are under intense domestic and international pressure to reform.

Africa's demographics are also a source of optimism. In 2010, 70 percent of the continent's population was under 30, with over 20 percent between 15 and 24. The UN estimates that the population of young people will double between now and 2050, and the continent may be nearing a 'demographic sweet spot' similar to the one experienced by the East Asian tigers during their sprint to prosperity beginning in the 1980s: A large working-age population relative to younger and older citizens.

If African countries can ride these factors—demographics, development and democracy—into an increased tax base, better services and infrastructure and genuinely representative political systems, the future looks bright indeed.

But let's also acknowledge the less-bright fundamentals. Africa's development indicators have improved, yes, but more slowly than other world regions. World Bank statistics pointed out in 2010 that nearly half of sub-Saharan Africa's population lived less than $1.25 a day. Most of this population are subsistence farmers, far from the physical and political infrastructure on which most development projects focus. According to the World Bank, 14 of the world's 20 least competitive economies are in Africa.

Even the demographics become trickier the more you look into them. Hitting the demographic sweet spot requires a drop in fertility, a population that produces fewer children per worker. A reported in a 2013 analysis in the Global Journal of Emerging Market Economies, African fertility rates are not falling as quickly as earlier estimates predicted. Reflecting on the updated projections, the African Development Bank noted that the 'non-ending youth bulge' could lead to what it calls the 'arc of instability'.

Furthermore, the challenges of Africa's population growth are disproportionately playing out in its cities. As reported by the UN's 2014 *World Urbanization Prospects*, the number of African megacities (10 million-plus population) is expected to rise from three to six by 2030, and to 35 (!) by 2050.

Though public services and infrastructure are improving in many African cities, the pace at which they are required to do so is a huge challenge.

All of this profoundly impacts the environment in which business takes place. 'Private sector-led growth' is a phrase you see a lot in institutional, government and development reports, but it's becoming increasingly clear that this is not a sufficient condition to lift living standards.

Based on the last few decades, you could argue that Africa already has private-sector-led growth. As noted in the UN Economic Commission on Africa's 2014 Economic Report, the continent's GDP growth has averaged more than 5 percent over the last 10 years, largely driven by the international rush for its commodities. Yet this growth has not translated into improved living standards for ordinary Africans. Mineral extraction generates vast wealth, but few jobs. Manufacturing accounted for just 9.8 percent of Sub-Saharan Africa's GDP in 2012 (compared to 19.2 percent for Asia), and has slowly declined in the last decade, a time when national budgets across the continent have tripled and quadrupled.

Taken together, you can look at all this in two ways. One way is, this is not the first moment of optimism for Africa. Recall the prosperous future imagined in the 1960s, as the continent proudly de-shackled from its colonial past. Or the 1970s and 1980s, when the discovery of natural resources launched another wave of grand hopes and shining pronouncements. The next decade is perpetualy 'The African decade', and this wave of optimism may be no different.

The other way to see it is equally un-sentimental, but perhaps slightly more plausible: Africa has nowhere to go but up. Wages are rising in China and supply chains are seeking, as always, the next cheap-labour destination. Vietnam and Cambodia are already showing signs of increasing costs, and there's not enough room in Burma for everyone. So where else is left?

This, plus the factors described above, is why investment in Africa is likely to increase in the coming years. It's also likely, unfortunately, to have impacts across the continent that aren't universally positive.

Emerging sectors

The extractive sector gets (deserved) scrutiny for the scale and impact of its activities in Africa. The continent has the world's fastest growth in offshore oil and gas reserves and, as pointed out in just about every economic analysis of the continent you can find, Africa's growth in recent decades has been driven by natural resource extraction.

In the coming years, however, we human rights and business practitioners should ensure that our focus widens to include other business activities. A 2014 EY survey found that the top sectors for foreign direct investment in Africa were technology, media and telecoms; retail and consumer products; and financial services. For the first time, mining and metals weren't in the top 10. This survey was measuring the number of projects, not the size of the investment, so it's skewed away from extractive-led megaprojects, but the increasing diversification of the continent is significant.

Already, 36 of the 50 biggest companies in Africa are non-extractives. Companies like MTN (telecom), ShopRite (retail) and Orascom (construction) have a visible—and growing—presence in Africa, and political systems and civil society shouldn't let them escape the scrutiny that has (OK, arguably) improved the social impacts of multinational extractive companies.

State-owned enterprises

> *'Approximately 77 percent of the world's proven oil reserves are under the control of [national oil companies] with no equity participation by international oil companies (IOCs). Western IOCs now control less than 10 percent of the world's oil and gas resource base. What is more, of the top 20 oil producing companies in the world, 14 are NOCs or newly privatized NOCs.'*

That's a 2007 Brookings Institution report, highlighting the huge role played by state-owned enterprises in the extractive sector. That report's too old by now to quote those figures without rocksalt, but a 2011 World Bank analysis, while finding lower percentages of state ownership in other minerals (gold: 17.6%; tin: 54.3%) noted that for all minerals, state ownership had increased between 2006 and 2009. There's no reason to believe this trend has halted since then.

To take just one example of the social and economic importance of state control of natural resource revenues, this report notes that between 2011 and 2013, state-owned oil companies in Africa sold over 2.3 billion barrels of oil, totaling $254 billion, or 56 percent of combined government revenues. And that's just oil. Gas, diamonds and other minerals contribute billions more. Of the six largest oil companies in Africa, only one is private.

This 2014 OECD report breaks down the impact of state-owned enterprises (SOEs) in Africa country by country. With few exceptions, they are significant contributors to economic activity (Tanzania: 30% of GDP; Zimbabwe: 40% of GDP) and employment (more than two-thirds of formal workers in the Seychelles are employed in SOEs), and operate in sectors including finance, water, electricity and transport.

I learned from my own work in Zimbabwe that extractive investments in the country are required to be joint ventures with the Zimbabwean government; many other African countries have similar requirements.

As the oil-sales report puts it,

> 'Our research demonstrates the highly opaque nature of national oil company crude sales. In most countries, information and oversight are in short supply – few NOCs [national oil companies] we studied publish annual reports and financial statements, even though their sales generate a major portion of the government budget. […] Because most national oil companies do not publish data on individual sales, information must be cobbled together from third-party sources.'

It's not that state-owned enterprises *by nature* have worse human rights impacts than private ones. But given the political and economic realities in which they operate, these actors have every incentive and opportunity to operate intransparently, and aren't subject to any of the inspections, investigations, penalties or external pressure that make Western companies (slightly) more likely to protect human rights in their operations.

Western multinationals have negative impacts too, of course, and their incentives are far from perfectly aligned with sustainable operations and national development. But for NGO advocates and UN Guiding Principles supporters, the prominence of state-owned enterprises represents a sort of perfect storm: Lack of transparency, capture of regulatory institutions, limited access to remedy and no leverage points to apply pressure. Without the basic incentives to know their human rights impacts and address them, both home and host governments have every reason to let them continue.

Revenue Transparency and Tax Justice

So that $254 billion worth of oil sold by African state-owned enterprises? That's from a 2014 survey that found that a quarter of that sum, or about $55 billion, was purchased by Swiss commodity

trading companies alone. Are we meant to believe it’s a coincidence that these companies are headquartered in a country that doesn’t require them to disclosure the payments they make to foreign governments? The flows of revenue from Swiss companies alone amounted to more than double the foreign aid given to these 10 African states in the same period.

The financial sector hasn’t been subject to the same scrutiny as frontline mining companies, but its impacts may be just as profound. As reported in the Swiss survey, 100 percent of Chad’s oil production, or 16 percent of total government revenue, was sold to just one Swiss company, Glencore. The scale of this business-state relationship would be problematic even if the process by which it came about were not so opaque.

And this is just one survey, one European country, one sector. It has now become the consensus view that these arrangements are one of the reasons so many minerals have left the African continent in the past thirty years but so little broadly shared wealth has come back to it. The African Economic Outlook 2014 noted that up to 70 percent of African governments had proposed tax holidays to attract foreign investment.

Existing surveys of this phenomenon tend to focus on the extractive sector because large-scale deals between governments and companies are (relatively) easy to track, and there’s a whole ecosystem of civil society that has spent the last three decades getting good at monitoring oil and mining companies. But as more investment arrives in Africa and the continent diversifies into smaller-footprint and more diffuse businesses, the problem of disappearing revenue is only going to become more acute.

Rising Prominence of Non-Western Investment

It would hardly be an original observation to note that large-scale, non-Western investments in Africa have significant potential for human rights impacts. As noted in the African Economic Outlook 2014, BRIC countries hold a combined $67.7 billion in African investments, and their share of total foreign direct investment (FDI) on the continent has increased from 8 percent to 12 percent since 2009. China accounts more than a third of this, with $27.7 billion in investment.

The ‘China in Africa’ story is usually told as one of large-scale infrastructure projects surrounded by chain-link fences, with Chinese ‘Keep Out’ signs on the outside and Chinese workers on the inside. But Africa and the rest of the developing world are becoming intertwined in other ways too. China exported $85 billion in goods to Africa in 2012. Africans, in other words, are buying Chinese-made products the same as the rest of us.

As the World Bank pointed out earlier this year, only 9 percent of exports from Sub-Saharan Africa were sold to BRIC countries in 2000. By 2010, that was up to 34 percent, and has likely risen even higher since then. Most of these exports are oil, minerals and other primary commodities, but Africa is increasingly selling other goods too, namely agricultural commodities and services.

Improving the impacts of these companies is going to require a paradigm shift, one that may require regulation, or some form of genuine stick and carrot, to initiate. Still, while it’s not exactly surprising, it was still a bit disappointing that non-Western companies were almost entirely absent from the Africa Regional Forum this year.

Trade Integration

While the rise of non-Western investment in Africa is relatively well-known, the potential of intra-African investment often gets overlooked. While it has risen steadily in the last decade, just 13

percent of African exports went to other African countries in 2011. By comparison, intra-regional trade amounted to 27 percent in South America, 53 percent in Asia and 71 percent in Europe.

One of the reasons for this is that African infrastructure was originally designed to facilitate links to the West, not within Africa itself. Here's an excerpt from Martin Meredith's 'The State of Africa', a history of the continent since independence. Meredith quotes a letter by Sylvanus Olympio, the first president of Togo, shortly after the country's independence in 1960:

> Although I can call Paris from my office telephone here in Lome, I cannot place a call to Lagos in Nigeria only 250 miles away. Again, while it takes a short time to send an air-mail letter to Paris, it takes several days for the same letter to reach Accra, a mere 132 miles away. Railways rarely connect at international boundaries. Roads have been constructed from the coast inland but very few join economic centres of trade. The productive central regions of Togo, Dahomey and Ghana are as remote from each other as if they were on separate continents.

It has been more than 50 years since Olympio's letter, but many of these barriers remain.

This 2012 World Bank report provides a fascinating example of the challenges of establishing African clusters of trade. Kinshasa-Brazzaville, two cities straddling an international border and about as far away from each other as San Francisco and Oakland, make up the third largest urban agglomeration in Africa. Considering their proximity and the similarity of their economies, it would make sense for the two cities to conduct extensive trade, yet only 1.1 percent of all imports to the Republic of Congo (Brazzaville) come from the Democratic Republic of Congo (Kinshasa). As the World Bank notes, passenger traffic between the two cities is five times smaller than that between East and West Berlin during the Cold War.

The most obvious reason for this is that crossing from Kinshasa to Brazzaville costs around $40, more than half of the average salary of most of the cities' residents. The national river-crossing operators, both state-owned, enjoy a de facto monopoly. Up to 17 government agencies, the report notes, collect tolls on business-related goods, even though only four are mandated to do so.

China and other non-Western investors have been cast as crucial actors in improving Africa's infrastructure, a perennial goal in national and international development strategies. However, as the report notes, only about a quarter of international shipping delays were due to poor infrastructure. The rest were due to 'soft' infrastructure bottlenecks such as roadblocks, tariffs or over-regulation. Multinational retail conglomerate ShopRite, for example, reportedly spends $20,000 per week in Zambia alone just to secure import permits to sell meat, milk, and vegetables in its stores.

This issue, and that of opening up trade more generally, should get more attention. Human rights campaigners are not used to thinking of restrictions on trade as a human rights issue, but the lack of intra-African trade represents a massive drain on resources, both financial and human. Missed opportunities for trade raise prices, prevent the poor from accessing markets and disincentivise new investment. It would be great to see these structural aspects become the focus of community advocacy.

Recommendations

This is an post by an NGO, so I guess I'd better end with some recommendations. Reflecting on the points above, here's some actions I'm hoping to see come out of this year's Forum:

> *Use existing leverage points.* This map identifies all the IFC-funded projects currently being undertaken around the world. Communities that have been negatively impacted by these projects can file a complaint with IFC's Compliance Advisor Ombudsman (CAO). I know, those

are the three most boring nouns in the English language, but the CAO has tremendous power to investigate allegations and initiate dispute resolution proceedings. OECD National Contact Points can also provide an extra-territorial forum for hearing complaints.

Create parallel initiatives: Organisations like the Kimberly Process and the Extractive Industries Transparency Initiative could also provide incentives for better corporate human rights practices, and it would be great to see parallel initiatives for other sectors pop up (there's already a some of them for apparel production). Extractive companies aren't the only ones that are reluctant to share their financial and operational information; let's get this pressure applied more broadly.

Lobby home governments: Recent years have seen significant campaigns to force Western companies to disclose their operations in the developing world. This has been most notable in the campaigns against conflict diamonds in the Congo (for which we NGO types would love to take credit, though we suspect Leonardo DiCaprio had something to do with it too), which resulted in the U.S. Dodd-Frank bill including a requirement for companies to report their connection with Congolese diamonds. The requirements have been softened by U.S. courts and Congress, but it's a step in the right direction. If they're not already, I hope the Forum served as inspiration for African and Western NGOs to work together to identify issues, regions and projects where Western consumers and governments can be activated to undertake this kind of action.

Create new leverage mechanisms: Let's face it—Western consumers, governments and civil society are limited in the effects they can have in Africa, especially when it comes to state-owned enterprises and non-Western investment. Unless the impacts of these actors are known, and African populations are engaged in improving them, they have no incentive to change. Personally, I hope to do a lot more work with African companies, governments and civil society, through the Country Guide, to help make this happen.

But it's not just Africa that needs new leverage mechanisms. Consumers in China, India, Russia, Brazil, Malaysia and other non-Western states investing on the continent have not launched campaigns to scrutinize the behaviour of their companies operating in Africa. This is understandable, given their domestic political and development challenges, but unfortunate. Hopefully new and innovative campaigns will find leverage points we never knew existed.

The UN Framework, and the process of consultation by which it was developed, has been successful at bringing companies to the table, and has played a role in the improved labour and human rights conditions in the operations and supply chains of publicly traded companies. The human rights and business field shouldn't lose this focus. The Forum demonstrated the great proliferation of advocacy, monitoring and engagement efforts throughout Africa, and the positive effects they've already had.

But I hope that, as investment in Africa grows and diversifies, the efforts to identify and address its impacts grow apace.