AFRICA-CHINA INVESTMENT PARTNERSHIP FOR DEVELOPMENT: THE DOWNSIDE, THE PROMISES AND A ROADMAP FOR THE FUTURE

Collins C. Ajibo*, Miriam C. Anozie, Timothy O. Umahi & Samuel I. Nwatu*

ABSTRACT

The emergence of China as a major capital exporting country, bolstered by its policy of the Belt and Road initiative (BRI), has resulted in an unprecedented influx of Chinese investment, loan financing and infrastructure development ever recorded by a single investor in Africa. The Chinese investment straddles virtually all sectors, ranging from transport infrastructure, telecommunications, real state, manufacturing, financial services and natural resources extraction. The presence of China in Africa has been hailed as a positive catalyst to revamp a continent dogged by stagnation, underdevelopment and infrastructural deficits. On the other hand, critics argue that China's presence reflects neo-colonialism, motivated mainly by the exportation of its influence and to ensure security in its quest for natural resources. Against this backdrop, African countries need to leverage the situation by having a blueprint of targeted objectives to ensure a win-win situation, namely: (1) a clear roadmap of their expectations and means to realize them; (2) optimization of the partnership for sustainable

* Collins C. Ajibo, PhD Manchester, LLM Manchester, BL, LLB Nig, Lecturer in Law, Faculty of Law, University of Nigeria, Enugu Campus. The author can be reached at: collins.c.ajibo@gmail.com.

** Authors: Lecturers in Law, Faculty of Law, University of Nigeria.

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development; (3) insistence on human rights protection substantively and procedurally; and (4) a means of performance measurement requiring monitoring, data collection and analysis to ensure the objectives sought are being realized; otherwise, a re-calibration of the partnership should be pursued.

KEYWORDS: *development, partnership, Africa, China, future roadmap*

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I. INTRODUCTION

The world economy is witnessing a tectonic shift in favour of the dominance of China as a major driver of international trade and investment.[1] China constitutes not only the world's second largest economy by nominal gross domestic product (hereinafter "GDP") averaging $11.3 trillion but also one of the fastest growing economies with an average growth of 10%.[2] The sustained rise of China is dwarfing the traditional key players in the international trade and investment landscape and this is likely to continue.[3] Driven by the ambitious "going global" strategy, an inherent part of the one belt one road (OBOR) initiative or Belt and Road Initiative (BRI) poised to connect Asia, Europe and Africa into a gigantic trade corridor, China continues to break the barriers to outward investment[4] and exports its over-capacity to new frontiers of investment opportunities.[5] The Chinese multinational enterprises (hereinafter "MNEs") fostered by the foreign policy principle of non-interference in the domestic polity of the host countries have tended to exploit investment opportunities in virtually all sectors of developing countries.[6] This emerging Chinese political and economic approach often termed the "Beijing Consensus" contrasts sharply with the "Washington Consensus" which thrives on the reliance on a private market-driven economy with necessary safeguards but often attaches conditionalities to international monetary fund (hereinafter "IMF") and World Bank financing.[7] The financing without strings approach of the Chinese has made it attractive to developing countries traditionally at the receiving end of the conditionalities, particularly African countries. The emerging South-South investment inflow is changing the dynamics of the

[1] U.N. CONFERENCE ON TRADE & DEV. [hereinafter UNCTAD], WORLD INVESTMENT REPORT 2017: INVESTMENT AND THE DIGITAL ECONOMY, at 8, U.N. Sales No. E.17.II.D.3 (2017).
[2] Int'l Monetary Fund [IMF], *World Economic Outlook Database — Report for Selected Countries and Subjects*, IMF (Oct. 2016), http://www.imf.org/external/pubs/ft/weo/2016/02/weodata/weorept.aspx?prx=82&pr.y=16&sy=2014&ey=2021&scsm=1&ssd=1&sort=country&ds=%2C&br=1&c=924&s=NGDPD%2CNGDPDPC%2CPPPGDP%2CPPPPC%2CPPPSH&grp=0&a=#cs3.
[3] UNCTAD, WORLD INVESTMENT REPORT 2017: INVESTMENT AND DIGITAL ECONOMY—KEY MESSAGES AND OVERVIEW, at 1-4, U.N. Sales No. E.17.II.D.3 (2017).
[4] UNITED NATIONS, FOREIGN DIRECT INVESTMENT MAKES A MODEST COMEBACK 41 (2016), http://www.unescap.org/sites/default/files/aptir-2016-ch3.pdf.
[5] Il Houng Lee et al., *Is China Over-Investing and Does It Matter?* 4 (IMF, Working Paper No. WP/12/277, 2012), https://www.imf.org/en/Publications/WP/Issues/2016/12/31/Is-China-Over-Investing-and-Does-it-Matter-40121.
[6] UNCTAD, ECONOMIC DEVELOPMENT IN AFRICA REPORT 2010: SOUTH-SOUTH COOPERATION—AFRICA AND THE NEW FORMS OF DEVELOPMENT PARTNERSHIP, at 13-16, U.N. Sales No. E.10.II.D.13 (2010).
[7] Daniel C. K. Chow, *Why China Established the Asia Infrastructure Investment Bank*, 49 VAND. J. TRANSNAT'L L. 1255, 1255 (2016).

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international investment landscape which has traditionally been characterized by the North-South investment inflow.[8]

In particular, China has emerged to not only be the largest investor in Africa but has also engaged in the most wide-ranging infrastructural investment ever recorded in the continent by a single investor.[9] Chinese infrastructure investment overseas has been projected to exceed $100 billion per year in the coming decade funded largely by the state-owned enterprises (hereinafter "SOEs"), Chinese banks, and the China-led Asian Infrastructure Investment Bank (hereinafter "AIIB").[10]This projection matches the scale of the infrastructure gap in Africa which is estimated to require an annual investment of over $93 billion.[11] The emerging Africa-China partnership will, no doubt, provide vast opportunities for both sides,[12] and perhaps, cure the "infrastructural curse"[13] that bedevils Africa's development paradigm.[14] Also, African countries are likely to massively gain in many areas such as capacity building[15] as well as the science and technological upgrade required to stimulate the under-developed sectors of the economy.

However, the Chinese interest in Africa equally presents challenges to African countries.[16] Chinese interest in the natural resources sector creates issues concerning transparency and human rights.[17] Because of the Chinese non-interference policy, state-induced human rights violations to facilitate

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[8] UNCTAD, ENHANCING SOUTH-SOUTH TRADE AND INVESTMENT FLOW 11 (2005), http://unctad.org/en/Docs/webditc20052_en.pdf.

[9] China's engagement with Africa is not new but dated back to 1950s shortly after the foundation of the People's Republic of China. The 1955 Asian-African Conference held in Bandung (the Bandung Conference) saw the Chinese leader, Mao Zedong, providing active support to national independent movements in Africa, highlighting the fact that the current Africa-China relation has historical precursors.

[10] Jeremy Kelley, *China in Africa: Curing the Resource Curse with Infrastructure and Modernization*, 12(3) SUSTAINABLE DEV. L. & POL'Y 35, 37 (2012).

[11] VIVIEN FOSTER & CECILIA BRICENO-GARMENDIA, AFRICA'S INFRASTRUCTURE: A TIME FOR TRANSFORMATION 6 (2009), http://documents.worldbank.org/curated/en/2009/01/11487313/africas-infrastructure-time-transformation.

[12] Richard Schiere, *China and Africa: An Emerging Partnership for Development?—An Overview of Issues* 8 (Afr. Dev. Bank Grp., Working Paper No. 125, 2011), https://www.sdgfund.org/china-and-africa-emerging-partnership-development-overview-issues.

[13] ORG. FOR ECON. CO-OPERATION & DEV. [hereinafter OECD], MAPPING SUPPORT FOR AFRICA'S INFRASTRUCTURE INVESTMENT 6 (2012), http://unohrlls.org/custom-content/uploads/2013/09/Mapping-Support-for-Africas-Infrastructure-Investment.pdf.

[14] Jeffrey Gutman et al., *Financing African Infrastructure: Can the World Deliver?*, BROOKINGS, (Mar. 20, 2015), https://www.brookings.edu/research/financing-african-infrastructure-can-the-world-deliver/.

[15] *See generally* Georg Lammich, *China's Impact on Capacity Building in the African Union* (S.-S. Dev. Cooperation, Working Paper, 2014), https://www.uni-heidelberg.de/md/awi/ssdc_lammich.pdf.

[16] UNCTAD, *supra* note 6, at 3.

[17] *See generally* Uche Ofodile, *Trade, Aid and Human Rights: China's Africa Policy in Perspective,* 4(2) J. INT'L COM. L. & TECH. 86 (2009); Mulonda Munalula & Kaliba Matildah, *Chinese Foreign Direct Investment in Africa's Natural Resources and the Impacts on Local Communities (A Focus on Extractive Industries): Review of Literature*, 2(3) WORLD J. SOC. SCI. & HUMAN. 102, 106 (2016).

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investment will hardly draw the ire of the Chinese.[18] Moreover, African countries lack the legal infrastructure and economic influence to manage the inherent risks associated with the partnerships.[19] Hence, African countries may face the danger of precipitous proceedings from the Chinese investors if they are merely carried away by the promises of Chinese investment without a careful appraisal of the pitfalls of the obligations assumed in the partnership.[20]

Consequently, it is contended that African countries should properly articulate their goals to ensure a win-win situation, namely: (1) clear objectives of their expectations and means to realize them; (2) optimization of the partnership for sustainable development; (3) insistence on human rights protection substantively and procedurally; and (4) means of performance measurement requiring monitoring, data collection and analysis to ensure the objectives sought are being realized. Otherwise, a re-calibration of the partnership may be necessary.

This article is divided into five sections. Apart from the introduction, section two deals with the theoretical dynamics that underlie development and how it affects Africa. Section three examines the diversity of issues at play in the conception of the Africa-China partnership. Section four evaluates the blueprint of options, while section five offers concluding remarks.

II. DEVELOPMENT PARTNERSHIP: THEORETICAL DYNAMICS

Partnership for development of developing countries including Africa is not a new phenomenon. Arguably, Africa-China economic diplomacy fits into the historical experience reflected in development-oriented policies of the past that oftentimes applied to Africa. These development policies draw theoretical justifications from relatively unsuccessful and successful development theories. The thrust of modernization theory of development, which gained traction in the 50s and 60s, is predicated on the fact that the development or modernization of the Third World countries would be accomplished through the diffusion of capital, institutions, and values from the First World countries.[21] Nevertheless, this development theory was not successful when applied to Africa largely because of the absence of many

[18] MARIE MEIXNER ET AL., CHINA INVESTMENT POLICY: CONSEQUENCES FOR WORKERS 40, 63-64 (2016), https://www.etuc.org/en/publication/china-investment-policy-consequences-workers.
[19] Won Kidane & Weidong Zhu, *China-African Investment Treaties: Old Rules, New Challenges*, 37(4) FORDHAM INT'L L.J. 1036, 1040 (2014).
[20] For such a possibility, see LORENZO COTULA ET AL., CHINA-AFRICA INVESTMENT TREATIES: DO THEY WORK? 51 (2013), https://pubs.iied.org/pdfs/17588IIED.pdf.
[21] Wolfgang Zapf, *Modernization Theory—and the Non-Western World* 1-6 (WZB Berlin Soc. Sci. Ctr., Working Paper No. P 2004-003, 2004), https://www.econstor.eu/bitstream/10419/50239/1/393840433.pdf.

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factors including the socio-economic prerequisites and the capacity to enforce legal rules and policies in most African countries,[22] coupled with the damaging effect of the emergent dependency theory. [23]

Unlike the modernization theory, the dependency theory considers development from the perspective of the "core" and "periphery", with the impacts of the "core" shaping the development of the "periphery".[24] Thus, the dependency theory reflects a situation whereby the less developed countries have their economies conditioned by the developed countries' economies. Despite some merits, the dependency theory failed to explain the tremendous success in the economic growth of the newly industrialized countries in Asia that would otherwise have been in the peripheral category, namely: Hong Kong, Singapore, South Korea and Taiwan.[25]

The aftermath of the decline of the modernization theory and the dependency theory was the growth of the neoliberal rules (reflected in Washington Consensus) in the 80s and 90s which gained prominence for its emphasis on the promotion of the free market economy. These rules concerned the privatization and deregulation of the economy, as well as the reduction of state intervention in the economy.[26]

Like the modernization theory and the dependency theory however, the neoliberal rules could not offer comprehensive solutions to economic stagnation and disparity in the development of countries, coupled with harsh conditionalities experienced by developing countries that relied on aid from the multilateral institutions such as the IMF and World Bank. Unlike the modernization theory however, the neoliberal rules still retain an element of relevance but did not engender transformative outcomes in Africa. Following on the heels of this, there is an emergence of further "proto-orthodoxy" rules predicated on diverse factors such as the legal origins rule, non-market values and comprehensive development approaches. [27] The former tends to integrate all aspects of development including social, economic and political factors, which can be equated with the broad requirements of the United Nations (hereinafter "UN") Sustainable Development Goals (hereinafter "SDGs"). But as the Northeast Asian development experience indicates (their development matrix defied extant

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[22] Yong-Shik Lee, *General Theory of Law and Development*, 50(3) CORNELL INT'L L.J. 415, 421 (2017).
[23] J. Matunhu, *A Critique of Modernization and Dependency Theories in Africa: Critical assessment*, 3(5) AFR. J. HIST. & CULTURE 65, 68-71 (2011).
[24] *Id.*
[25] Alfred G. Nhema, *Modernization, Dependency and Structural Adjustment Development Theories and Africa: A Critical Appraisal*, 4(1) INT'L J. SOC. SCI. RES. 151, 155 (2016).
[26] For details of the predicates of Washington Consensus, see JOHN WILLIAMSON, BEIJING CONSENSUS VERSUS WASHINGTON CONSENSUS 2-3 (2010), https://relooney.com/NS3040/Washington-Consensus-Chapter.pdf.
[27] *See generally* John K. M. Ohnesorge, *Developing Development Theory: Law and Development Orthodoxies and the Northeast Asian Experience*, 28(2) U. PA. J. INT'L ECON. L. 219, 219-31 (2007).

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theories), a one-size-fits-all prescription is not always advisable. Hence, despite the influential nature of these theories, they failed to solve the underlying development challenges of Africa.

Thus, the unsuccessful nature of these theories closely relates to the reasons that foreign direct investment (hereinafter "FDI") prior to China did not work for Africa. Strong complementarities and mutually reinforcing linkages among capital formation, technological progress and structural change constitute the main basis for the successful integration of FDI into the host country's economy.[28] The success of FDI is hugely dependent on the presence of local technological capacities and capabilities involving a mix of learning on the job along with more formal training and government support, to ensure the adequate supply of skills and know-how with which to absorb, adapt and advance technology.[29] Most African countries lacked the skill reservoir and technological infrastructure necessary to effectively absorb FDI to foster economic growth and development. Further, previous development partners did not make significant efforts to solve the underlying problem.[30] Also, FDI from the previous partners, unlike that of Africa-China, were not fully undertaken in consonance with the massive infrastructural development of Africa necessary for the effectiveness of FDI.[31]

Thus, the Africa-China partnership for development should be situated within these existing theories, ideologies and their overall outcomes. But this raises important questions about the relationship between the previous development theories that failed in Africa and the current Africa-China partnership. Unlike the West that championed the modernization theory, China has not clearly stated that it aims to impose its development blueprint on Africa in a manner reminiscent of modernization theory. Apparently, the Africa-China partnership mimics some elements of the dependency theory because China imports relatively cheaper natural resources and raw materials from Africa and subsequently exports finished and processed products that are relatively more expensive to Africa. However, the partnership does not exactly replicate dependency theory because the Africa-China relation is not historically defined by colonialism. Further, China considers Africa as its partner rather than the former colonies, which makes the situation more acceptable to African countries.

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[28] UNCTAD, ECONOMIC DEVELOPMENT IN AFRICA: RETHINKING THE ROLE OF FOREIGN DIRECT INVESTMENT, at 23-24, U.N. Doc. UNCTAD/GDS/AFRICA/2005/1, U.N. Sales No. E.05.II.D.12 (2005).

[29] *Id.*

[30] Collins C. Ajibo et al., *Technology Transfer for Development in Nigeria: Patterns, Problems and Prospects*, 45(1) COMMONWEALTH L. BULL. 70, 87 (2019).

[31] David Haroz, *China in Africa: Symbiosis or Exploitation?*, FLETCHER FORUM WORLD AFF. (May 15, 2016), http://www.fletcherforum.org/home/2016/8/12/china-in-africa-symbiosis-or-exploitation.

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Arguably, the partnership is underpinned by its own unique characteristics. Some view the partnership as based on symbiotic theory predicated on mutual benefits and a win-win strategy.[32] Conversely, others consider the theoretical basis of the partnership as being asymmetrical, with China dictating the pace.[33] The parties however do not seem to worry about the theoretical nomenclature of their partnership but are instead committed to a new form of South-South trade and investment diplomacy.

Indeed, Africa's unenviable experiences with previous development partners must have influenced their current drive towards the East and the resort to alternative models of economic partnership: what has generally been termed as the "Beijing Consensus".

The Beijing Consensus is generally understood in extant literature as the policies pursued by China.[34] It reflects a new approach to development predicated on China's model for economic growth and political principles of non-interference and self-determination.[35] The Beijing Consensus is largely based on three main theories.[36] Firstly, it relies on innovation as a driver of development. The reliance on this has revolutionized China's development paradigms, placing China not only among the world leaders in research and development but also the world leader in clean energy technology.[37] Secondly, it postulates that economic success can be measured not necessarily by GDP per capita but by its sustainability and level of equality. Hence, the Beijing Consensus focuses on people and measures development based on the quality of life of the population, sustainability and equality.[38] The third theorem is the self-determination for China and other countries. The preceding is underpinned by additional factors, namely: (1) opposition to the Washington Consensus; (2) globalization on their own terms; (3) Chinese global influence by moral politics and soft power; and (4) the development of asymmetric capabilities that balance the United States (hereinafter "US") global hegemony.[39]

Like the Washington Consensus, the Beijing Consensus embodies many ideas that are not entirely related to economics but rather concern politics, quality of life and the global balance of power.[40] Unlike the Washington

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[32] *Id*.
[33] Adams Bodomo, *Africa-China Relations: Symmetry, Soft Power and South Africa*, 9(2) CHINA REV. 169, 171 (2009).
[34] WILLIAMSON, *supra* note 26.
[35] WORLD FORESIGHT FORUM, THE BEIJING CONSENSUS: AN ALTERNATIVE APPROACH TO DEVELOPMENT 2-3 (2011), https://hcss.nl/sites/default/files/files/reports/WFF02_Issue_Brief_The_Beijing_Consensus02.pdf.
[36] JOSHUA COOPER RAMO, THE BEIJING CONSENSUS: NOTES ON THE NEW PHYSICS OF CHINESE POWER 11-13 (2009), http://www.chinaelections.org/uploadfile/200909/20090918021638239.pdf.
[37] WORLD FORESIGHT FORUM, *supra* note 35.
[38] *Id*.
[39] *Id*.
[40] RAMO, *supra* note 36, at 5.

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Consensus however, the Beijing Consensus is neither interested in pressuring African countries to deregulate and privatize the economy nor impose austerity for loans. Rather than prescribing rigid recommendations for managing the challenges in distant nations reminiscent of the Washington Consensus, the Beijing Consensus recognizes the importance of flexibility in confronting diverse developmental problems. [41]

Developing countries such as Africa increasingly view the Beijing Consensus as an alternative to western development models. [42] As contended, the Beijing Consensus is "having a gigantic effect outside of China". [43] Accordingly, China is charting "a path for other nations . . . who are trying to figure out not simply how to develop their countries, but also how to fit into the international order in a way that allows them to be truly independent, to protect their way of life and political choices . . . ." [44]

The Chinese underlying developmental approach is strengthened by the AIIB and the Export-Import Bank of China (China Eximbank) which engage in significant development loans and infrastructure financing.[45] The AIIB is broadly structured to replicate the role of multilateral institutions such as the IMF and World Bank by engaging in wide-ranging infrastructure financing in many sectors including agriculture, energy, telecommunications, transportation, and more. With over US$ 100 billion capital,[46] the AIIB currently has 80 member countries and dozens of "prospective" members, among them many African countries including Algeria, Egypt, Ethiopia, Ghana, Kenya, Libya, Morocco, and Togo.[47] In particular, the Chinese loans (i.e., loans from Chinese government, banks and contractors) to African governments and their SOEs are in the region of over US$ 143 billion,[48] with further financing likely to continue in the foreseeable future. Chinese economic interactions come in varied forms such as through institutional

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[41] *See generally* Dustin R. Turin, *The Beijing Consensus: China's Alternative Development Model*, 2(1) INQUIRIES J. 1 (2010), http://www.inquiriesjournal.com/articles/134/the-beijing-consensus-chinas-alternative-development-model.

[42] WORLD FORESIGHT FORUM, *supra* note 35.

[43] RAMO, *supra* note 36, at 3.

[44] *Id*.

[45] Other entities that facilitate trade and investment include the China Development Bank (CDB), Industrial and Commercial Bank of China (ICBC), China International Trade and Investment Corporation (CITIC), China Export and Credit Insurance Corporation (CECIC) and AIIB. These institutions work in alliance with the government to achieve their trade and investment objectives. *See also AFC Secures $300 Million Loan Facility from Export-Import Bank of China*, FIN. NIGERIA (Oct. 11, 2018), http://www.financialnigeria.com/afc-secures-300-million-loan-facility-from-export-import-bank-of-china-sustainable-photovideo-details-1016.html.

[46] U.N. ECON. & SOC. COMM'N FOR ASIA AND PACIFIC, ASIAN INFRASTRUCTURE INVESTMENT BANK 4 (2019), https://www.unescap.org/sites/default/files/Asian%20Infrastructure%20Investment%20Bank%2C%20An%20introduction%202019.pdf.

[47] Cyril Prinsloo, *AIIB Membership for African Countries: Drawcards and Drawbacks*, 10(4) GLOBAL POL'Y 625, 625-26 (2019).

[48] *China Loans to Africa*, CHINA AFR. RES. INITIATIVE, http://www.sais-cari.org/data-chinese-loans-to-africa (last visited Dec. 5, 2019).

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interactions (at national level and African Union (hereinafter "AU") level), FDI, concessional and non-concessional loan finance ranging from official development aid to export credits, suppliers' credits, infrastructural finance and development.[49] As noted, "[t]he firepower of Chinese institutions and their eagerness to invest in infrastructure is shaking up the rules of development finance".[50]

III. CHINESE TRADE AND INVESTMENT DIPLOMACY IN AFRICA: DIVERSITY OF ISSUES AT PLAY

Chinese investment comes in various shapes but most often in the form of natural resource extraction and large-scale infrastructure projects. So far, about thirty-five African countries are engaged with China on infrastructure finance deals, with the biggest recipients being Angola, Ethiopia, Nigeria, and Sudan.[51] Africa has now emerged as the third-largest destination for Chinese investment behind Asia and Europe.[52]

A. Polarity in the Conception of the Africa-China Relationship

The question is, will this Chinese development model solve Africa's underlying development problems? Two polar positions underlie the question.[53] On the one hand, China is considered to be primarily driven by the imperatives of its economic development and security for natural resources.[54] Referring to the Africa-China relations, the former US secretary of state Hillary Clinton warned Africans about the danger of a "new colonialism" during a trip to Zambia, Tanzania, and Ethiopia in 2011.[55] She contended that dealings with only African elites reminiscent of Africa-Sino

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[49] It should be noted that 2008 was the only year in the past decade where Chinese FDI flows to Africa exceeded those from the US, peaking US$ 5.5 billion. Similarly, the US remains the largest donor to Africa but the Chinese influence is no doubt on the rise. *See Chinese Investment in Africa*, CHINA AFR. RES. INITIATIVE, http://www.sais-cari.org/chinese-investment-in-africa (last visited Dec. 5, 2019).

[50] *Keep an Eye on China's Innovations in Development Finance*, UNCTAD (Feb. 26, 2018), https://unctad.org/en/pages/newsdetails.aspx?OriginalVersionID=1671.

[51] Ehizuelen Omoruyi et al., *China's Infrastructure Development and Its Impact on Africa Economic Growth*, 23 INT'L J. AFRICAN & ASIAN STUD. 36, 37 (2016).

[52] Mariama Sow, *Figures of the Week: Chinese Investment in Africa*, BROOKINGS (Sept. 6, 2018), https://www.brookings.edu/blog/africa-in-focus/2018/09/06/figures-of-the-week-chinese-investment-in-africa/.

[53] Lauren Gamache et al., *China's Trade and Investment Relationship with Africa*, U.S. INT'L TRADE COMM'N [USITC] EXECUTIVE BRIEFINGS ON TRADE (2013), https://www.usitc.gov/publications/332/2013-04_ChinaAfrica%28GamacheHammerJones%29.pdf.

[54] ANNA KATHARINA STAHL, CHINA'S RELATIONS WITH SUB-SAHARAN AFRICA 2 (2016), https://www.iai.it/sites/default/files/iaiwp1622.pdf.

[55] Andrew Quinn, *Clinton Warns Against "New Colonialism" in Africa*, REUTERS (June 11, 2011, 6:14 PM), http://www.reuters.com/article/us-clinton-africa-idUSTRE75A0RI20110611.

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relations have the trademarks of colonialism: "[w]e saw that during colonial times it is easy to come in, take out natural resources, pay off leaders and leave".[56] She pointed to contrasting US policy of non-separation of political and economic governance from trade and investment deals in African countries.[57] This view does not differ from the position of former governor of the Nigerian central bank, who equated China's interest in Africa with imperialism.[58] Hence, he called on African countries to wake up from the realities of the exploitative potential of the Chinese.[59] This position is not far from the views and "headlines" in the Western media. In fact, it has been emphasized that when it comes to China's quest for natural resources vis a vis democratic governance in Africa, "[w]here Western investors place a premium on rule of law, Chinese investment is, empirically speaking, allocated equally between weak rule of law and strong rule of law countries".[60] Critics argue that China is deliberatively setting Africa in a debt trap to access natural resources making "Chinese debt" to be "the methamphetamines of infrastructure finance: highly addictive, readily available, and with long-term negative effects that far outweigh any temporary high".[61] These raise important questions on China's investments in poor governance environments.

On the other hand, China is seen as being on a transformative mission to lift African countries from the doldrums of under-development and infrastructural deficit to the path of economic prosperity and enhanced standards of living.[62] In fact, Africans view China more favourably than some Western development partners.[63] According to a 2016 poll conducted in thirty-six countries by Afrobarometer, a Pan-African research network, not less than 63% of Africans view China's economic and political role in Africa positively.[64] Also, former Senegalese President, Abdoulaye Wade, once noted that "China, which has fought its own battles to modernize, has a much greater sense of the personal urgency of development in Africa than

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[56] *Id*.
[57] *Id*.
[58] Lamido Sanusi, *Africa Must Get Real About Chinese Ties*, FIN. TIMES (Mar. 12, 2013), http://www.ft.com/cms/s/0/562692b0-898c-11e2-ad3f-00144feabdc0.html#axzz3ZaBFDod4.
[59] *Id*.
[60] DAVID DOLLAR, CHINA'S ENGAGEMENT WITH AFRICA: FROM NATURAL RESOURCES TO HUMAN RESOURCES 28-29 (2016), https://www.brookings.edu/wp-content/uploads/2016/07/Chinas-Engagement-with-Africa-David-Dollar-July-2016-1.pdf.
[61] Grant Harris, *China Is Loaning Billions of Dollars to African Countries: Here's Why the U.S. Should Be Worried*, TIME (Aug. 30, 2018), http://time.com/5381467/china-africa-debt-us-security/.
[62] Dambisa Moyo, *Beijing, a Boon for Africa*, N.Y. TIMES (June 27, 2012), http://www.nytimes.com/2012/06/28/opinion/beijing-a-boon-for-africa.html.
[63] *Id*.
[64] *See generally* AFROBAROMETER, CHINA'S GROWING PRESENCE IN AFRICA WINS LARGELY POSITIVE POPULAR REVIEWS (2016), http://afrobarometer.org/sites/default/files/publications/Dispatches/ab_r6_dispatchno122_perceptions_of_china_in_africa1.pdf.

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many western nations".[65] Accordingly, the deficit in the accountability of human rights ascribed to China in Africa can be considered a failure of the political governance in Africa rather than a failure of the Chinese.[66] That is, rather than complain about Chinese conduct African leaders have a responsibility to enforce the laws if China is breaching the human rights of African nations.t.

B. Quid Pro Quo *Approach*

Upgrading infrastructure in African countries is critical to stimulating businesses. Previous development partners failed to achieve this. Therefore, Africa-Sino relations should be driven more by a *quid pro quo* approach rather than an exploitative approach. China clearly has objectives in Africa which could be motivated predominantly by the quest for resources.[67] China imports African resources such as oil, iron ore, timber, and copper. Previous development partners were also motivated by the same quest for resources. Nevertheless, China appears to be charting a different path from former development partners of Africa. In a 2015 tour of Kenya, China's then Foreign Minister insisted that "[China] absolutely will not take the old path of Western colonists, and we absolutely will not sacrifice Africa's ecological environment and long-term interests".[68] Does this statement reflect the factual situations on the ground? The answer is debatable. But it is the responsibility of African countries to clearly articulate their objectives. If the African leadership lacks clear objectives to foster their national interests, China should not be blamed for this lack of vision.

C. Forum on China-Africa Co-operation (FOCAC)

The Chinese engagement with African countries is not limited to economic engagement but extends to social, political and security cooperation, for example, the overseas military base in Djibouti. The FOCAC, an institutional interaction between China and Africa, in its first Ministerial Conference held in Beijing in 2000 made a declaration of commitment to a Programme for China-Africa Cooperation in Economic and Social Development on the basis of equality and mutual respect. The underlying objectives of FOCAC extend to strengthening consultation and

[65] *China in Africa*, COUNCIL ON FOREIGN REL., https://www.cfr.org/backgrounder/china-africa (last visited Dec. 5, 2019).
[66] Moyo, *supra* note 62.
[67] BREEANA JONES, RESOURCES FOR INFRASTRUCTURE: THE SUSTAINABILITY DYNAMICS OF SINO-AFRO TRADE 1 (July 2013), http://www.syntao.com/Uploads/file/Resources%20for%20Infrastructure.pdf.
[68] Elizabeth Manero, *China's Investment in Africa: The New Colonialism?*, HARV. POL. REV. (Feb. 3, 2017), http://harvardpolitics.com/world/chinas-investment-in-africa-the-new-colonialism/.

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expanding cooperation within a pragmatic and realistic framework. It also aims to promote political dialogue and economic cooperation. African countries and AU are members of FOCAC, with the latter benefitting through an AU Conference and Office Complex built by the Chinese government free of charge.

The FOCAC provides a forum for high level political interactions at the institutional level intended to strengthen continuous interactions, shared understanding and harmonization of mutual interests. Nevertheless, this has increased unease in some quarters that China is endorsing and strengthening the grip of African leaders' on power despite the authoritarian disposition of some of them. By contrast, western powers tend to insist on democratic institutions and human rights governance while engaging in trade and investment. Equally, critics argue that China applies aid strategically to support China's foreign policy initiatives at the multilateral forum. [69] AidData estimates that for every 10% increase in voting support for China's initiatives at the UN, there is an increase of aid by an average 86% by China. [70] The US appears to have similar policy evidenced in the response to the backlash from the US administration's policy towards Jerusalem. Nevertheless, China's aid-for-support strategy appears to be favouring its foreign policy given that South Africa denied entry to the Dalai Llama in 2014, and Kenya deported fifty Taiwanese nationals in 2016. [71]

D. Chinese Investment and African Economic Development

China is gradually outpacing the US as the largest investor in Africa by capital expenditure while the US remains the most prolific investor by number of projects.[72] African countries require massive investment in many facets of socio-economic life to stimulate the economy and standards of living. The most critical aspects include: electricity, water and sanitation, transport infrastructure, mining and extraction of natural resources, manufacturing, telecommunication, infrastructure development and others. Equally, African countries require massive transformation in such sectors as education, healthcare, employment and the conservation of the environment, given the benchmarks set by the UN SDGs. China has already engaged with a number of African countries to fill gaps in infrastructure through the massive construction of roads, railways, bridges, schools, and hospitals,[73]

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[69] *Id*.
[70] *Id*.
[71] *Id*.
[72] ANALYSE AFRICA ET AL., THE AFRICA INVESTMENT REPORT 2017, https://www.slideshare.net/simbagoma/the-africa-investment-report-2017-analyse-africa-fdi-intelligence (last visited Dec. 5, 2019).
[73] *Id*.

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however, significant gaps remain. As noted by the International Finance Corporation, better quantity and quality of infrastructure raises the productivity of human and physical capital and boosts overall growth.[74]

But it should be noted that mere Chinese investment and infrastructural development will not transform into automatic economic growth in Africa. Certainly, the literature on the relationship between FDI and economic growth remains generally mixed, with FDI oftentimes engendering positive economic growth and at other times indicating no significant correlation.[75] That is, the overall impact of FDI on economic growth in the recipient economy depends on the scope for efficiency spillovers to domestic firms. Through this, FDI leads to increasing returns in domestic production, and increases the value-added content of FDI-related production. [76] The implication is that FDI does not automatically translate into economic growth. Rather, the host country must structure its economic growth policies to fully integrate and maximize FDI inflow.

Hence, African countries have a responsibility to structure their economic policies to fully optimize Chinese investment, bearing in mind each country's peculiarities. As indicated below, such structuring of economic policies should factor in both the vertical and horizontal diffusion of technologies from Chinese investment to the host economy. Also, there should be a means for data collection, aggregation and performance measurement.

IV. BLUEPRINT OF OPTIONS TO MAXIMIZE THE AFRICA-CHINA PARTNERSHIP

The presence of the Chinese in the African continent could not have come at a better time given that the continent has been partly viewed as beyond redemption.[77] The Chinese saved mines that had been deteriorating under previous investors, leading to an expansion of facilities, rescuing of jobsand creation of new ones.[78] Nevertheless, it is also pertinent for African countries to have a blueprint of how to harness the potential inherent in the

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[74] Antonio Estache & Grégoire Garsous, *The Scope for an Impact of Infrastructure Investments on Jobs in Developing Countries*, IFC ECON. NOTES 1-2 (Apr. 2012), https://pdfs.semanticscholar.org/8368/9182bc3a7a5a1937880035918ab333b1acc0.pdf?_ga=2.1856753.1574055347.1581342497-222314924.1581342497.

[75] Kamil Makiela & Bazoumana Ouattara, *Foreign Direct Investment and Economic Growth: Exploring the Transmission Channels*, 72 ECON. MODELLING 296, 296 (2018).

[76] Luiz R. de Mello Jr., *Foreign Direct Investment in Developing Countries and Growth: A Selective Survey*, 34(1) J. DEV. STUD. 1, 1-3 (1997).

[77] *Africa50 Appoints Rupali Gupta as Head of Investor Relations*, AFR.50 (Aug. 9, 2017), https://www.africa50.com/news/article/africa50-appoints-rupali-gupta-as-head-of-investor-relations-155/.

[78] Manero, *supra* note 68.

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partnership to foster socio-economic development.[79] This is particularly important given that the failure of the Western-oriented development theories to solve the challenges of economic stagnation in Africa do not automatically translate into the success of China's economic diplomacy in Africa. In fact, if the partnership is properly managed, it will be a win-win strategy for both sides.

A. Regulatory Policies that Target Technological Diffusion and Capacity Building

African countries are undoubtedly underpinned by economic stagnation and challenges of underdevelopment in virtually all strata of development. Lacking organized skill reservoirs, African countries heavily depend on FDI to extract and develop vast resources in the continent. African countries rely disproportionately on the sale of raw materials, extracted by foreign investors, for foreign exchange. Africa is completely at a crossroad economically, socially and politically. This perhaps explains the positive disposition of African governments to Chinese economic diplomacy. The Chinese presence will not entirely eliminate these challenges even if it will have significant impacts on the standards of living. Consequently, African governments require a blueprint of technological diffusion and capacity building implemented at both the admission and establishment stage of investment.

Arguably, the requirements for technological diffusion and capacity building for the local workforce should be made a condition for doing business in Africa. Technology diffusion ensures that technologies are adopted locally, know-how is shared, and the local population and workforce utilise and learn how to use new and innovative technologies.[80] Technological diffusion does not occur overnight; rather it requires an adequate local skill base, absorptive capacity and receptive infrastructure. Thus, African governments should insist on linking every inward investment to a form of partnership with indigenous firms to foster skill transfer. Similarly, the absorption of local workforce by foreign firms should be in strategic areas with promise of high skill acquisition. Above all, there should be a way of monitoring performance, performance measurement and re-calibration in order to achieve set objectives.

It is on record that the technological revolution that happened in China and the tiger economies of East Asia (Hong Kong, Singapore, South Korea, and Taiwan) were partly inspired by the presence of Japanese and Western

[79] Kidane & Zhu, *supra* note 19.

[80] Allison Mages, *Driving Technology Diffusion Commercially*, WORLD TRADE ORG. [WTO] (Nov. 12, 2014), https://www.wto.org/english/tratop_e/trips_e/ipwrkshopnov14_e/H_Mages_Session_V.pdf.

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transnational corporations in their territories and the spillover of incremental knowledge. Hence, African governments should not just limit themselves to the enjoyment of Chinese infrastructure, royalties and taxes. Rather, technological diffusion and skill transfers should be towards the top on the agenda in the partnership through linkages with inward investment in the continent.

B. Environmental Sustainability

The Chinese interest in the extraction of natural resources such as oil, gas and minerals raises important questions about compliance with environmental sustainability. Increasingly, stakeholders are subjecting the Chinese mode of investment to close scrutiny to determine their level of compliance with environmental sustainability. Human rights cannot be secured in a degraded or polluted environment. As noted, the "[e]nvironmental conditions clearly help to determine the extent to which people enjoy their basic rights to life, health, adequate food and housing, and traditional livelihood and culture".[81]

The fundamental right to health and right to life are threatened by soil degradation and deforestation, as well as by exposures to toxic chemicals, hazardous wastes and contaminated drinking water. An environment underpinned by pollution of air, land and water courses affects the right to health, right to food (derived from marine environment and farming) and the right to water, particularly if the communities rely on the water courses for subsistence. This in turn affects the realization of other rights such as the right to education and other SDGs critical for meaningful living.

The deficit in the environmental governance of extractive sectors is a feature of most resource-rich African countries. This occurs partly in the form of gas flaring, waste disposals and oil spills. Gas flaring has negative impacts on the air quality, health and environment. Nigeria occupies a notorious second position to Russia in the global gas flaring index. In Nigeria, it is also estimated that around eleven million gallons of oil spill each year creating vast wastes. The multinational oil companies involved oftentimes blame "social instability", particularly sabotage by militants, thieves, or individuals hoping to collect remediation costs. However, a significant proportion of spills are probably due to concealed equipment or operational failures. According to the U.N. Environment Programme report, the environmental restoration of Niger-delta region in Nigeria "could prove to be the world's most wide-ranging and long term oil clean-up exercise ever

[81] Dinah Shelton, *Human Rights, Health and Environmental Protection: Linkages in Law and Practice*, WORLD HEALTH ORG. [WHO] 2 (2002), https://www.who.int/hhr/information/Human_Rights_Health_and_Environmental_Protection.pdf.

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undertaken if contaminated drinking water, land, creeks and important ecosystems such as mangroves are to be brought back to full, productive health".[82] The Report covered over 4000 samples in more than 200 locations involving water and soil samples which unraveled an unprecedented scale of ecological devastation and monumental health risk posed by the unsustainable practices.[83] Though all the major multinational oil companies such as Chevron, Exxon Mobil and others involved in oil and gas exploration are implicated in this environmental carnage, Shell appears to be the chief culprit.[84]

Certainly, Chinese companies cannot be held liable for the acts of these Western multinationals. However, Chinese companies are increasingly participating in oil and gas exploration in the Niger-delta of Nigeria. In fact, three Chinese oil companies are already involved in Nigerian Niger-delta, namely: China National Petroleum Corporation (CNPC), China Petrochemical Corporation (Sinopec) and China National Offshore Oil Corp (CNOOC), with more poised to follow.[85] Chinese companies are no less culpable than Western multinationals but they have simply escaped attention.

By all means, Chinese multinationals are not under the same constraints that underpin Western multinationals, such as the watchdog role of non-governmental organizations (NGOs), judicial activism, public perception, shareholders' revolt, among others. Instead, China's SOEs—"owe their duty of transparency to their home government and not to the shareholders or other stakeholders of the company".[86] Hence, it is said that Chinese multinationals have aggravated the regulatory race to the bottom among African states.[87]

A step to embed environmental sustainability in doing business in Africa was taken with the establishment of the China-Africa Environmental Cooperation Centre which was to be based in Nairobi.[88] The Centre intends "to complement existing initiatives through enhanced partnership between China and African countries, private sector, research institutions, and intergovernmental organizations".[89] Hence, it will provide "a platform for

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[82] U.N. ENV'T PROGRAMME, ENVIRONMENTAL ASSESSMENT OF OGONILAND 8-10 (2011), http://postconflict.unep.ch/publications/OEA/UNEP_OEA.pdf.
[83] *Id.*
[84] *Id.* at 25.
[85] *China's Interest in Nigeria's Oil and Gas Growing*, THECABLE (Sept. 11, 2014), https://www.thecable.ng/chinas-interest-in-nigerias-oil-and-gas-growing.
[86] Eghosa Osa Ekhator, *Corporate Social Responsibility and Chinese Oil Multinationals in the Oil and Gas Industry of Nigeria: An Appraisal*, 28 CADERNOS DE ESTUDOS AFRICANOS 119, 134 (2014).
[87] *Id.*
[88] *African Countries, China Launch Joint Environmental Effort with Plans for New Center Based in Nairobi*, U.N. ENV'T PROGRAMME (Aug. 17, 2018), https://www.unenvironment.org/news-and-stories/press-release/african-countries-china-launch-joint-environmental-effort-plans-new.
[89] *Id.*

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capacity development, technical support, environmental policy dialogue and mobilization of funds for environmental projects and programmes".[90]

The challenge about sustainability in Africa is not so much about substantive principles but the capacity and willingness to implement the environmental laws and regulations. Most countries in Africa have in place the frameworks of environmental law, human rights law and constitutional law which prescribe robust mechanisms for sound environmental governance in extractive industries. Also, the AU-inspired African Mining Vision not only sets out the modalities for equitable and inclusive distribution of rents from extraction of natural resources but also sound environmental governance in mining activities.[91] However, African countries generally have failed to prioritize the implementation of environmental sustainability alongside financial accrual. As noted by the World Bank, much of the emphasis on environmental sustainability in developing countries "appears directed towards the approval of oil and gas projects, rather than to a life cycle approach for minimizing environmental and social impact".[92]

Consequently, a number of suggestions can provide guidance for compliance with environmental obligations by Chinese companies. Firstly, the governments should do more to enforce existing environmental legislation and regulations, including the promulgation of new regulation where lacuna exists. Although China is making an effort in this direction through the promulgation of the "Guidelines for Environmental Protection in Foreign Investment and Cooperation" for Chinese companies,[93] the regulatory authorities in Africa need not limit themselves to Chinese efforts. Secondly, there should be mandatory environmental sustainability reporting by Chinese companies. Unlike voluntary reporting, mandatory reporting should be backed by penalties for breaches. Further, public participation in environmental decision-making is becoming increasingly relevant,[94] and this concept should underpin the Africa-Chinese partnership. Accordingly, there should be public access to information, public participation and access to justice in governmental decision-making processes relating to the environment.[95] Thus, the regulatory authorities and the Chinese companies

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[90] *Id*.

[91] *Africa Mining Vision February 2009*, AFR. UNION 3-6 (Feb. 2009), http://www.africaminingvision.org/amv_resources/AMV/Africa_Mining_Vision_English.pdf.

[92] *Environmental Governance in Oil-Producing Developing Countries*, WORLD BANK 14-15 (2010), http://siteresources.worldbank.org/EXTOGMC/Resources/336929-1266963339030/eifd17_environmental_governance.pdf.

[93] *Guidelines for Environmental Protection in Foreign Investment and Cooperation*, MINISTRY COM. CHINA [hereinafter MOFCOM] (Mar. 1, 2013), http://english.mofcom.gov.cn/article/policyrelease/bbb/201303/20130300043226.shtml.

[94] Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, June 25, 1998, 2161 U.N.T.S. 447.

[95] *Id*.

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should carry all stakeholders along in the project design, approval and implementation processes.

C. Human Rights Considerations

Human rights abuses by the Chinese enterprises can be classified as either direct or indirect.[96] The former arises where it is perpetrated by the Chinese companies against Africans working for them or within their area of operational influence. Human Rights Watch found that Zambians working in the country's Chinese-run copper mines "suffer from abusive employment conditions that fail to meet domestic and international standards and fall short of practices among the copper mining industry elsewhere in Zambia".[97] It was also found out that miners at several Chinese-run companies are subjected to "poor health and safety standards, including poor ventilation that can lead to serious lung diseases, hours of work in excess of Zambian law, the failure to replace workers' personal protective equipment that is damaged while at work", as well as "the threat of being fired should workers refuse to work in unsafe places".[98] By contrast, indirect human right abuse is seen where the Chinese investors and the governments are propping up repressive regimes to enable the former to have uninterrupted access to resources in the relevant states. This is evidenced by "China's support for the Sudanese government even in the face of human rights abuses; its unconditional aid to Angola, that has helped the government to shun accountability and transparency; its support for inhuman practices meted to the citizens of Zimbabwe by the government, among others".[99]

Certainly, China's human rights record should be judged from the prism of its cultural, political and regulatory experiences. Hence, China's human right scorecard in Africa should be situated within the broader context of its responsibility towards the human rights of its citizens at home. According to Human Rights Watch, China's domestic human rights record has deteriorated since the Tiananmen Square crackdown in 1989.[100] Increasingly, China is transposing this situation into the UN Human Right Council (hereinafter "UNHRC") where it traditionally played a passive role in the issue of human rights. Hence, China is now taking a more active role

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[96] For alternative ways of critiquing Chinese human rights record, see Timothy Webster, *China's Human Rights Footprint in Africa*, 51 COLUM. J. TRANSNAT'L L. 626 (2013).

[97] *You'll Be Fired if You Refuse: Labor Abuses in Zambia's Chinese State-owned Copper Mines*, HUM. RTS. WATCH (Nov. 4, 2011), https://www.hrw.org/report/2011/11/04/youll-be-fired-if-you-refuse/labor-abuses-zambias-chinese-state-owned-copper-mines.

[98] *Id*.

[99] Adaora Osondu-Oti, *China and Africa: Human Rights Perspective*, 41(1) AFR. DEV. 49, 49 (2016).

[100] HUMAN RIGHTS WATCH, THE COSTS OF INTERNATIONAL ADVOCACY: CHINA'S INTERFERENCE IN UNITED NATIONS HUMAN RIGHTS MECHANISMS 15 (2017), https://www.hrw.org/sites/default/files/report_pdf/chinaun0917_web.pdf.

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in trying to change the discourse on human rights to its favour through a two-pronged strategy, namely: blocking international criticism of its repressive human rights record, and promotion of orthodox notions of national sovereignty and non-interference in internal affairs "that weaken international norms of human rights, transparency, and accountability".[101] In what seems a broader goal, China tabled the first-ever HRC resolution in June 2017 and followed this with a second resolution in March 2018. Both resolutions emphasized national sovereignty, quiet dialogue and cooperation rather than investigations of human rights violations "as the path to improving their vision of collective human rights and social stability".[102] Thus, China appears to be undermining human rights rather than strengthening it, which subsequently affects its human rights record in Africa.

Nevertheless, the state-controlled China's Chamber of Commerce of Metals, Minerals and Chemicals (hereinafter "CCCMC") issued two sets of guidelines in 2014 and 2015 respectively for the overseas operations of Chinese firms. The CCCMC's 2014 Guidelines for Social Responsibility in Outbound Mining Investment was followed by the 2015 Chinese Due Diligence Guidelines for Responsible Mineral Supply Chains which elaborate on the 2014 guidelines so to avoid dealing with conflict-related materials. The CCCMC's guidelines explicitly made reference to the UN Guiding Principles on Business and Human Rights (hereinafter "UNGPs"), adopted by the UNHRC in 2011. The UNGPs refer to the UN International Bill of Human Rights and the International Labour Organization's (hereinafter "ILO") core labour standards as the minimum baseline of human rights that companies should respect. Hence, it can be surmised by virtue of the above that China is making efforts to address the issue of human rights in overseas operations.

Arguably, China's role in the observance of human rights norms and principles appears consistent with its development objectives. As noted, it "is intriguing that guidance for Chinese companies operating overseas incorporates reference to international law instruments that explicitly cover some of the labour rights and other human rights that China does not support nationally".[103] It should be borne in mind that CCCMC's guidelines came before the 2017 and 2018 UNHRC resolutions tabled by China seeking to undermine the principles of human rights by aligning it to sovereignty and development imperatives. Thus, it is important that African governments

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[101] Ted Piccone, *China's Long Game on Human Rights at the United Nations*, BROOKINGS 1 (Sept. 2018), https://www.brookings.edu/wp-content/uploads/2018/09/FP_20181009_china_human_rights.pdf.

[102] *Id*. at 4.

[103] Karin Buhmann, *Chinese Human Rights Guidance on Minerals Sourcing: Building Soft Power*, 46(2) J. CURRENT CHINESE AFF. 135, 136 (2017).

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prioritize holding Chinese investors responsible for the violation of human rights instead of the current laxity that underpin the enforcement of these rights.

Some concrete proposals to address human rights abuses by Chinese companies are worth pointing out. Firstly, African government should cease to prioritize economic interests over the enforcement of human rights law. The greatest problem encountered in holding Chinese companies accountable for human rights abuse lies with the continued but untenable prioritization of economic interests over human rights. Secondly, like environmental sustainability reporting, there should be mandatory reporting of compliance with human rights by Chinese businesses. This should be filed with the regulatory authorities. This form of reporting provides the opportunity for all stakeholders to know what the Chinese companies are doing to address human rights protection in their area of operation. Thirdly, there should be a form of public complaint whereby erring companies should initially be constructively engaged through dialogue but if they persist in breaches, then the "name and shame" approach should be applied as a last resort. The preceding does not obviate by any means criminal or civil penalties for breaches. Above all, there should be complementary efforts by the Chinese companies to observe the human rights of their workers and local communities.

D. Compliance with Labour Law

International standard-setting institutions in this area particularly the Organisation for Economic Co-operation and Development (hereinafter "OECD") and ILO have elaborate guidelines outlining best practices in labour.[104] The ILO is particularly active in the overall regulation of best practices in labour. The ILO MNE Declaration provides direct guidance to national and multinational enterprises on responsible and sustainable workplace practices.[105] The MNE Declaration constitutes "the only global instrument in this area and the only one that was elaborated and adopted by governments, employers and workers from around the world".[106] Its principles are addressed to national and multinational enterprises, governments of host and home countries, employers and workers' organizations providing guidance in such areas as employment, conditions

[104] *See* ORG. FOR ECO. CO-OPERATION & DEV. [hereinafter OECD], OECD GUIDELINES FOR MULTINATIONAL ENTERPRISES 35-41 (2011); *see generally* OECD, OECD DUE DILIGENCE GUIDANCE FOR RESPONSIBLE BUSINESS CONDUCT (2018).
[105] *See generally* INT'L LAB. ORG. [ILO], TRIPARTITE DECLARATION OF PRINCIPLES CONCERNING MULTINATIONAL ENTERPRISES AND SOCIAL POLICY (5th ed. 2017), https://www.ilo.org/wcmsp5/groups/public/---ed_emp/---emp_ent/---multi/documents/publication/wcms_094386.pdf.
[106] *Id.*

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of work, training, industrial relations and general policies.[107] Similarly, the ILO Labour Legislation Guidelines promote the ILO Declaration on Fundamental Principles and Rights at Work[108] in order to ensure the enthronement of overall best practices in labour standards.[109]

The conduct of Chinese businesses have not generally conformed to these best practices in labour standards. The Johannesburg-based South Africa Resource Watch (SARW) revealed that Chinese companies had engaged in widespread labour abuses in sub-Saharan Africa, subjecting local employees to harsh and unfair working conditions in Zimbabwe, Zambia, and the Democratic Republic of Congo. The Chinese are blamed "for not hiring local workers, paying low wages, having precarious working conditions, and providing little training".[110] A Chinese national was deported by the Kenyan immigration for racial slurs against his Kenyan colleagues.[111] Chinese investors once opened fire on Zambian workers protesting against poor pay and conditions at the Collum coal mine in the southern Sinazongwe province of the country.[112] Chinese firms operating in Nigeria stand accused of engaging in poor labour practices, harsh treatment of employees, low wages, and poor corporate governance practices.[113] A Nigerian technician employed by a Chinese company was once smacked with an aluminum rod by a Chinese boss for genuinely refusing to do a job that was meant for others.[114] In South Africa, reports indicate that local employees are routinely "paid below minimum wage and denied benefits and skills training".[115] These occurrences are replete in the continent. Though some Chinese migrant workers face mistreatment oftentimes experienced by their African colleagues, this is no excuse for the violation

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[107] *Id.*

[108] See ILO, *Declaration on Fundamental Principles and Rights at Work* (June 18, 1998), https://www.ilo.org/declaration/thedeclaration/textdeclaration/lang--en/index.htm, which commits Member States to respect and promote principles and rights in four categories, whether or not they have ratified the relevant Conventions. These categories are: freedom of association and the effective recognition of the right to collective bargaining, the elimination of forced or compulsory labour, the abolition of child labour and the elimination of discrimination in respect of employment and occupation.

[109] See *id.*, covering national labour law texts in the field and the eight ILO fundamental Conventions.

[110] Tang Xiaoyang, *Does Chinese Employment Benefit Africans? Investigating Chinese Enterprises and their Operations in Africa*, 16(3-4) AFRICAN STUD. Q. 107, 107 (2016).

[111] Godfrey Olukya, *How a Racist Slur Aimed at a Few Offended Many and Put Africa's Chinese Community at Risk*, SOUTH CHINA MORNING POST (Nov. 3, 2018, 4:00 PM), https://www.scmp.com/news/world/africa/article/2171494/how-racist-slur-aimed-few-offended-many-and-put-africas-chinese.

[112] Socrates Mbamalu, *Plight of African Workers Under Chinese Employers*, AFRICAN LIBERTY (Sept. 27, 2018), https://www.africanliberty.org/2018/09/27/plight-of-african-workers-under-chinese-employers/.

[113] Austin Campbell, *Riding a "Friendly Elephant"? How African Nations Can Make the Best of Economic Partnership with China*, 49 VAND. J. TRANSNAT'L L. 499, 520 (2016).

[114] Mbamalu, *supra* note 112.

[115] Campbell, *supra* note 113.

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of national and international labour standards. The plight of African workers under the Chinese investors is a dark reminder of the poor implementation of labour laws and the ineffectiveness of trade unions that underscore many African countries.

African governments should do more to enforce their own labour laws and force business enterprises including the Chinese businesses operating in their area of jurisdictions to comply with the labour law. African countries can ensure Chinese enterprises comply with labour laws by undertaking some concrete actions.[116] Firstly, there is a need for an enhanced implementation of periodic inspection of factories and workplaces by the regulatory authorities. This form of inspection already exists but the regulatory authorities appear to be somewhat lax in applying sanctions for breaches.[117] Hence, information from such inspections should be utilized for further regulation or engagement with the Chinese businesses. In other words, where the working conditions are poor and workers are mistreated, the regulator should apply sanctions. The nature of sanctions applicable will be dependent on the severity of breaches, with the issuance of warning, imposition of fines, imprisonment, and closure of businesses constituting the options. Secondly, African countries need to improve complaint procedures for workers. The workers and non-workers should be encouraged to bring information for breaches, including anonymous informants. Useful information should be acted upon immediately and sanctions applied to increase public confidence in the effectiveness of such a procedure. Thirdly, the regulatory authorities should constantly monitor the wage conditions and resultant violations. This will determine the compliance with payment structures consistent with labour law. Corrective measures should be applied if violations exist such as by ordering the Chinese enterprises to adjust wage payment or through the imposition of fines on erring enterprises. Finally, the regulatory authorities should improve access to justice. Those unjustly treated should not be impeded from obtaining justice.

Arguably, the implementation of enhanced labour laws will not reduce the interests of Chinese investments in Africa. In fact, China is committed to improved labour standards in Africa. The Guidelines for Social Responsibility in Outbound Mining Investments, issued by the CCCMC emphatically require Chinese businesses in Africa to respect labour law, which includes considerations such as the appropriate remuneration of workers, decent working environments, avoidance of child or compulsory

[116] Lucas Ronconi, *Enforcement of Labor Regulations in Developing Countries*, IZA WORLD LAB. (Mar. 2019), https://wol.iza.org/articles/enforcement-of-labor-regulations-in-developing-countries/long.

[117] In Nigeria, the Standard Organisation of Nigeria and the National Agency for Food and Drug Administration undertake these forms of inspection even though the outcomes are sometimes compromised if the inspected company is influential.

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labour, respect for the right to collective bargaining and maintenance of occupational health and safety of workers.[118] As pointed out, improved labour and safety practices have direct impacts on the profitability of Chinese companies in Africa, so the companies are eager to apply all the resources available to ensure compliance.[119]

E. Illicit Payments and Bribery in Business Dealings

Illicit payments in international business refer to "an offer or demand to or by a foreign public official of any payment by a person or corporation and for undue consideration of (non-) performance of duties".[120] Significant benchmarks have already been recorded at the multilateral level in the efforts to curb illicit payment in businesses dealings. There are in existence the following instruments: the UN International Agreement and Resolutions on Illicit Payments;[121] the 1997 OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions; and the 1992 World Bank Guidelines on the Treatment of FDI.[122] Also, Article 21 of the 2016 AU Pan-African Investment Code prohibits bribery payments relating to investment interests. There is also the AU Convention on Preventing and Combating Corruption (AUCPCC) adopted on 11 July 2003 to combat the negative effects of corruption and its devastating effects on the economic, social and political development of the continent. In the same vein, article 4(m) of the Constitutive Act of the AU and Aspiration 3 of Agenda 2063 emphasize the firm commitment of African leaders to embed a culture of good governance and rule of law. Aspiration 3 of Agenda 2063 further states that by 2063, corruption will be eradicated in the continent. Moreover, the AU launched the African Anti-Corruption Year in 2018. The national laws, in particular, criminal law of most African countries also provide elaborate laws against illicit payments.

Despite these efforts, illicit deals and payments feature prominently when doing business in Africa. Because such deals are illegal, it is not always easy to find concrete evidence of such acts. Hence, most reports are based on anecdotal evidence, except where a matter goes on trial and a conviction is secured. Broadly speaking, illicit dealings affect all businesses operating

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[118] China's Chamber of Commerce of Metals, Minerals and Chemicals [CCCMC], *Guidelines for Social Responsibility in Outbound Mining Investments*, MOFCOM 13-16 (2018), http://images.mofcom.gov.cn/csr2/201812/20181224151850626.pdf.

[119] INT'L INST. ENV'T & DEV., CHINESE BUSINESSES IN AFRICA: PERSPECTIVES ON CORPORATE SOCIAL RESPONSIBILITY AND THE ROLE OF CHINESE GOVERNMENT POLICIES 14-16 (2016).

[120] UNCTAD, KEY TERMS AND CONCEPTS IN IIAS: A GLOSSARY, at 89, U.N. Sales No. E. 04.II.D.31 (2004).

[121] *See* G.A. Res. 62/202 (Dec. 19, 2007).

[122] *See* WORLD BANK, GUIDELINES ON THE TREATMENT OF FOREIGN DIRECT INVESTMENT §III (8) (1992).

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in Africa, not merely the Chinese enterprises. Unfortunately, African government officials appear to condone this kind of corruption for self-enrichment. In Nigeria, there "is a pervasive lack of will to end corruption" as people who manipulated their way into power through corruption cannot be expected to stifle their source of power and influence.[123] The Chinese Addax Petroleum Ltd, a subsidiary of Chinese Sinopec International Petroleum Exploration and Petroleum Corporation, stood accused of paying "millions of dollars in bribes to Nigerian officials to secure juicy contracts in the oil industry".[124] In South Africa, evidence of corruption or at least the perception of corruption has actually been increasing in recent years, indicating that existing measures have not been particularly effective.[125] Evidence indicates that "[m]any Chinese businesses, including government-linked and government-owned companies, routinely use corrupt practices to gain an advantage in Africa".[126] This is reinforced by an empirical study verifying widespread corruption in the business practices of Chinese investors.[127]

In a report by McKinsey, corruption was cited amongst the largest pain points that needed to be addressed in order to make the Africa-China partnership sustainable.[128] According to the report, 60% to 87% of Chinese firms conceded that they had paid a "tip" or bribe to obtain approvals for business transactions in Africa.[129] The report further notes that corruption problem is "a vicious cycle in these countries—one fed by perceptions on both the African and the Chinese sides".[130] In fairness to China, there has been massive crackdown on corruption in the mainland China. However, Chinese anti-corruption effort against Chinese companies doing business in Africa is less pronounced.[131] With regards to African countries, most of them

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[123] Campbell, *supra* note 113, at 534.

[124] Ben Ezeamalu, *How Drowning Chinese-Qwned Oil Firm Paid Millions of Dollars as Bribe to Nigerian Officials*, PREMIUM TIMES (Nov. 25, 2017), https://www.premiumtimesng.com/news/headlines/250539-drowning-chinese-owned-oil-firm-paid-millions-dollars-bribe-nigerian-officials.html.

[125] Campbell, *supra* note 113, at 537.

[126] Joshua Meservey, *Chinese Corruption in Africa Undermines Beijing's Rhetoric About Friendship with the Continent*, HERITAGE FOUND. (Aug. 8, 2018), https://www.heritage.org/global-politics/report/chinese-corruption-africa-undermines-beijings-rhetoric-about-friendship-the.

[127] Ann-Sofie Isaksson & Andreas Kotsadam, *Chinese Aid and Local Corruption*, 159 J. PUB. ECON. 146, 146 (2018).

[128] IRENE YUAN SUN ET AL., DANCE OF THE LIONS AND DRAGONS: HOW ARE AFRICA AND CHINA ENGAGING, AND HOW WILL THE PARTNERSHIP EVOLVE? 64 (2017), https://www.mckinsey.com/~/media/McKinsey/Featured%20Insights/Middle%20East%20and%20Africa/The%20closest%20look%20yet%20at%20Chinese%20economic%20engagement%20in%20Africa/Dance-of-the-lions-and-dragons.ashx.

[129] *Id.*

[130] *Id.*

[131] Chinwe Esimai, *Chinese Investments in Africa: Four Anti-corruption Trends to Watch*, KNOWLEDGE WHARTON (Sept. 19, 2019), https://knowledge.wharton.upenn.edu/article/chinese-investments-africa-four-anti-corruption-trends-watch/.

臺灣大學學術期刊資料庫

implement the Extractive Industries Transparency Initiative (EITI) standards aimed at promoting the global standard for open and accountable management of oil, gas and mineral resources.[132] Despite these, most of them remain beset by pervasive corruption.

Thus, African countries require a robust roadmap for tackling illicit business dealings. Firstly, there should be strict enforcement of anti-corruption laws irrespective of who is involved. Part of the challenges with the preceding is usually the involvement of high-ranking government officials in illicit dealings with the Chinese. African countries must make a choice to eradicate the continent of the distortive effects of corruption in doing business, through consistent seizure of the proceeds of illicit dealings and imprisonment of offenders. Secondly, African countries need to strengthen the capacity of their institutions and watchdog agencies such as anti-corruption agencies to track and expose corruption, as well as prosecute and punish culprits. The watchdog agencies should enjoy complete autonomy in all aspects. Also, there should be conclusive investigations, prosecution and punishment of offenders. To achieve this, transparency and disclosure of business deals, closer monitoring of business deals and data collection need to be strengthened. Finally, China should complement these efforts through the punishment of its companies doing business in Africa if found to be involved in illicit dealings. It is in China's interest to improve its business practices in the continent to stave off backlash from the African people and, perhaps, reduce the growing Western criticisms.

V. CONCLUSION

The economic diplomacy of the Chinese in Africa is a subject of diverse interpretation depending on the perspective taken. Some contend that Chinese loan financing, extraction of natural resources and infrastructural investment will deliver African countries out of the resource curse perception and its stagnation in virtually all sectors. By contrast, others argue that China's objective in Africa reflects neo-colonialism. Hence, they merely seek African abundant resources using benevolent loans to entrap Africa. Further, they cite diverse violations perpetrated by Chinese businesses such as human rights abuses and corrupt practices to facilitate businesses deals. China's conduct and its records in Africa so far should be situated within the broader context of the prevailing social, political, cultural and economic experiences. Nevertheless, China has a responsibility to back its outward posturing as a good friend of Africa with sincere respect to national and international laws.

[132] *Implementation Status*, EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE [EITI], https://eiti.org/countries (last visited Dec. 5, 2019).

臺灣大學學術期刊資料庫

REFERENCES

Articles

Ajibo, Collins C. et al. (2019), *Technology Transfer for Development in Nigeria: Patterns, Problems and Prospects*, 45(1) COMMONWEALTH LAW BULLETIN 70.

Bodomo, Adams (2009), *Africa-China Relations: Symmetry, Soft Power and South Africa*, 9(2) CHINA REVIEW 169.

Buhmann, Karin (2017), *Chinese Human Rights Guidance on Minerals Sourcing: Building Soft Power*, 46(2) JOURNAL OF CURRENT CHINESE AFFAIRS 135.

Campbell, Austin (2016), *Riding a "Friendly Elephant"? How African Nations Can Make the Best of Economic Partnership with China*, 49 VANDERBILT JOURNAL OF TRANSNATIONAL LAW 499.

Chow, Daniel C. K. (2016), *Why China Established the Asia Infrastructure Investment Bank*, 49 VANDERBILT JOURNAL OF TRANSNATIONAL LAW 1255.

de Mello Jr., Luiz R., (1997), *Foreign Direct Investment in Developing Countries and Growth: A Selective Survey*, 34(1) JOURNAL OF DEVELOPMENT STUDIES 1.

Ekhator, Eghosa Osa (2014), *Corporate Social Responsibility and Chinese Oil Multinationals in the Oil and Gas Industry of Nigeria: An Appraisal*, 28 CADERNOS DE ESTUDOS AFRICANOS 119.

Isaksson, Ann-Sofie & Andreas Kotsadam (2018), *Chinese Aid and Local Corruption*, 159 JOURNAL OF PUBLIC ECONOMICS 146.

Kelley, Jeremy (2012), *China in Africa: Curing the Resource Curse with Infrastructure and Modernization*, 12(3) SUSTAINABLE DEVELOPMENT LAW & POLICY 35.

Kidane, Won & Weidong Zhu (2014), *China-African Investment Treaties: Old Rules, New Challenges*, 37(4) FORDHAM INTERNATIONAL LAW JOURNAL 1036.

Lee, Yong-Shik (2017), *General Theory of Law and Development*, 50(3) CORNELL INTERNATIONAL LAW JOURNAL 415.

Makiela, Kamil & Bazoumana Ouattara (2018), *Foreign Direct Investment and Economic Growth: Exploring the Transmission Channels*, 72 ECONOMIC MODELLING 296.

Matunhu, J. (2011), *A Critique of Modernization and Dependency Theories in Africa: Critical assessment*, 3(5) AFRICAN JOURNAL OF HISTORY & CULTURE 65.

Munalula, Mulonda & Kaliba Matildah (2016), *Chinese Foreign Direct Investment in Africa's Natural Resources and the Impacts on Local Communities (A Focus on Extractive Industries): Review of Literature*,

臺灣大學學術期刊資料庫

2(3) WORLD JOURNAL OF SOCIAL SCIENCES & HUMANITIES 102.
Nhema, Alfred G. (2016), *Modernization, Dependency and Structural Adjustment Development Theories and Africa: A Critical Appraisal*, 4(1) INTERNATIONAL JOURNAL OF SOCIAL SCIENCE RESEARCH 151.
Ofodile, Uche (2009), *Trade, Aid and Human Rights: China's Africa Policy in Perspective*, 4(2) JOURNAL OF INTERNATIONAL COMMERCIAL LAW & TECHNOLOGY 86.
Ohnesorge, John K. M. (2007), *Developing Development Theory: Law and Development Orthodoxies and the Northeast Asian Experience*, 28(2) UNIVERSITY OF PENNSYLVANIA JOURNAL OF INTERNATIONAL LAW 219.
Omoruyi, Ehizuelen et al. (2016), *China's Infrastructure Development and Its Impact on Africa Economic Growth*, 23 INTERNATIONAL JOURNAL OF AFRICAN & ASIAN STUDIES 36.
Osondu-Oti, Adaora (2016), *China and Africa: Human Rights Perspective*, 41(1) AFRICA DEVELOPMENT 49.
Prinsloo, Cyril (2019), *AIIB Membership for African Countries: Drawcards and Drawbacks*, 10(4) GLOBAL POLICY 625.
Webster, Timothy (2013), *China's Human Rights Footprint in Africa*, 51 COLUMBIA JOURNAL OF TRANSNATIONAL LAW 626.
Xiaoyang, Tang (2016), *Does Chinese Employment Benefit Africans? Investigating Chinese Enterprises and Their Operations in Africa*, 16(3-4) AFRICAN STUDIES QUARTERLY 107.

Treaty

Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, June 25, 1998, 2161 U.N.T.S. 447.

U.N.-related Documents

General Assembly Resolution 62/202 (December 19, 2007).
UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT (2004), KEY TERMS AND CONCEPTS IN IIAS: A GLOSSARY, U.N. Sales No. E. 04.II.D.31.
UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT (2005), ECONOMIC DEVELOPMENT IN AFRICA: RETHINKING THE ROLE OF FOREIGN DIRECT INVESTMENT, U.N. Doc. UNCTAD/GDS/AFRICA/2005/1, U.N. Sales No. E.05.II.D.12.
UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT (2010), ECONOMIC DEVELOPMENT IN AFRICA REPORT 2010: SOUTH-SOUTH COOPERATION—AFRICA AND THE NEW FORMS OF DEVELOPMENT PARTNERSHIP, U.N. Sales No. E.10.II.D.13.
UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT (2017), WORLD INVESTMENT REPORT 2017: INVESTMENT AND THE DIGITAL

臺灣大學學術期刊資料庫

ECONOMY, U.N. Sales No. E.17.II.D.3.

UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT (2017), WORLD INVESTMENT REPORT 2017: INVESTMENT AND DIGITAL ECONOMY—KEY MESSAGES AND OVERVIEW, U.N. Sales No. E.17.II.D.3.

UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT, ENHANCING SOUTH-SOUTH TRADE AND INVESTMENT FLOW (2005), http://unctad.org/en/Docs/webditc20052_en.pdf.

UNITED NATIONS ECONOMIC AND SOCIAL COMMISSION FOR ASIA AND THE PACIFIC, ASIAN INFRASTRUCTURE INVESTMENT BANK (2019), https://www.unescap.org/sites/default/files/Asian%20Infrastructure%20Investment%20Bank%2C%20An%20introduction%202019.pdf.

UNITED NATIONS ENVIRONMENT PROGRAMME, ENVIRONMENTAL ASSESSMENT OF OGONILAND (2011), http://postconflict.unep.ch/publications/OEA/UNE P_OEA.pdf.

UNITED NATIONS, FOREIGN DIRECT INVESTMENT MAKES A MODEST COMEBACK (2016), http://www.unescap.org/sites/default/files/aptir2016-ch3.pdf.

Internet Sources

AFC secures $300 Million Loan Facility from Export-Import Bank of China, FINANCIAL NIGERIA (October 11, 2018), http://www.financialnigeria.com/afc-secures-300-million-loan-facility-from-export-import-bank-of-china-sustainable-photovideo-details-1016.html.

Africa50 Appoints Rupali Gupta as Head of Investor Relations, AFRICA50 (August 9, 2017), https://www.africa50.com/news/article/africa50-appoints-rupali-gupta-as-head-of-investor-relations-155/.

African Countries, China Launch Joint Environmental Effort with Plans for New Center Based in Nairobi, U.N. ENVIRONMENT PROGRAMME (August 17, 2018), https://www.unenvironment.org/news-and-stories/press-release/african-countries-china-launch-joint-environmental-effort-plans-new.

AFROBAROMETER, CHINA'S GROWING PRESENCE IN AFRICA WINS LARGELY POSITIVE POPULAR REVIEWS (2016), http://afrobarometer.org/sites/default/files/publications/Dispatches/ab_r6_dispatchno122_perceptions_of_china_in_africa1.pdf.

ANALYSE AFRICA ET AL., THE AFRICA INVESTMENT REPORT 2017, https://www.slideshare.net/simbagoma/the-africa-investment-report-2017-analyse-africa-fdiintelligence.

China in Africa, COUNCIL ON FOREIGN RELATIONS, https://www.cfr.org/backgrounder/china-africa.

China Loans to Africa, CHINA AFRICA RESEARCH INITIATIVE, http://www.sais-cari.org/data-chinese-loans-to-africa.

臺灣大學學術期刊資料庫

China's Chamber of Commerce of Metals, Minerals and Chemicals, *Guidelines for Social Responsibility in Outbound Mining Investments*, MINISTRY OF COMMERCE, PEOPLE'S REPUBLIC OF CHINA (2018), http://images.mofcom.gov.cn/csr2/201812/20181224151850626.pdf.

China's Interest in Nigeria's Oil and Gas Growing, THECABLE (September 11, 2014), https://www.thecable.ng/chinas-interest-in-nigerias-oil-and-gas-growing.

Chinese Investment in Africa, CHINA AFRICA RESEARCH INITIATIVE, http://www.sais-cari.org/chinese-investment-in-africa.

COTULA, LORENZO ET AL. (2013), CHINA-AFRICA INVESTMENT TREATIES: DO THEY WORK?, https://pubs.iied.org/pdfs/17588IIED.pdf.

DOLLAR, DAVID (2016), CHINA'S ENGAGEMENT WITH AFRICA: FROM NATURAL RESOURCES TO HUMAN RESOURCES, https://www.brookings.edu/wp-content/uploads/2016/07/Chinas-Engagement-with-Africa-David-Dollar-July-2016-1.pdf.

Environmental Governance in Oil-Producing Developing Countries, WORLD BANK (2010), http://siteresources.worldbank.org/EXTOGMC/Resources/336929126696339030/eifd17_environmental_governance.pdf.

Esimai, Chinwe, *Chinese Investments in Africa: Four Anti-Corruption Trends to Watch*, KNOWLEDGE WHARTON (September 19, 2019), https://knowledge.wharton.upenn.edu/article/chinese-investments-africa-four-anti-corruption-trends-watch/.

Estache, Antonio & Grégoire Garsous, *The Scope for an Impact of Infrastructure Investments on Jobs in Developing Countries*, IFC ECONOMICS NOTES (April 2012), https://pdfs.semanticscholar.org/8368/9182bc3a7a5a1937880035918ab333b1acc0.pdf?ga=2.185675315740 55347.1581342497-222314924.1581342497.

Ezeamalu, Ben, *How Drowning Chinese-Qwned Qil Firm Paid Millions of Dollars as Bribe to Nigerian Officials*, PREMIUM TIMES (November 25, 2017), https://www.premiumtimesng.com/news/headlines/250539-drowning-chinese-owned-oil-firm-paid-millions-dollars-bribe-nigerian-officials.html.

FOSTER, VIVIEN & CECILIA BRICENO-GARMENDIA (2009), AFRICA'S INFRASTRUCTURE: A TIME FOR TRANSFORMATION, http://documents.worldbank.org/curated/en/2009/01/11487313/africas-infrastructure -time-transformation.

Guidelines for Environmental Protection in Foreign Investment and Cooperation, MINISTRY OF COMMERCE, PEOPLE'S REPUBLIC OF CHINA (March 1, 2013), http://english.mofcom.gov.cn/article/policyrelease/bbb/201303/20130300043226.shtml.

Gutman, Jeffrey et al., *Financing African Infrastructure: Can the World Deliver?*, BROOKINGS (March 20, 2015), https://www.brookings.edu/re

臺灣大學學術期刊資料庫

search/financing-african-infrastructure-can-the-world-deliver/.

Haroz, David, *China in Africa: Symbiosis or Exploitation?*, THE FLETCHER FORUM OF WORLD AFFAIRS (May 15, 2016), http://www.fletcherforum.org/home/2016/8/12/china-in-africa symbios is-or-exploitation.

Harris, Grant, *China Is Loaning Billions of Dollars to African Countries: Here's Why the U.S. Should Be Worried*, TIME (August 30, 2018), http://time.com/5381467/china-africa-debt-us-security/.

HUMAN RIGHTS WATCH (2017), THE COSTS OF INTERNATIONAL ADVOCACY: CHINA'S INTERFERENCE IN UNITED NATIONS HUMAN RIGHTS MECHANISMS, https://www.hrw.org/sites/default/files/report_pdf/chinaun0917_web.pdf.

International Labour Organization, *Declaration on Fundamental Principles and Rights at Work* (June 18, 1998), https://www.ilo.org/declaration/thedeclaration/textdeclaration/lang--en/index.htm.

Implementation Status, EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE, https://eiti.org/countries.

INTERNATIONAL LABOUR ORGANIZATION (2017), TRIPARTITE DECLARATION OF PRINCIPLES CONCERNING MULTINATIONAL ENTERPRISES AND SOCIAL POLICY (5th ed.), https://www.ilo.org/wcmsp5/groups/public/---ed_emp/---emp_ent/---multi/documents/publication/wcms_094386.pdf.

International Monetary Fund, *World Economic Outlook Database— Report for Selected Countries and Subjects*, INTERNATIONAL MONETARY FUND (October 2016), http://www.imf.org/external/pubs/ft/weo/2016/0 2/weoata/worept.spx?pr.x=82&pr.y=16&sy=2014&ey=2021&scsm=1&ssd=1&sort=country&ds=%2C&br=1&c=924&s=NGDPD%2CNGDPDPC%2CPPPGDP%2CPPPPC%2CPPPSH&grp=0&a=#cs3.

SUN, IRENE YUAN ET AL. (2017), DANCE OF THE LIONS AND DRAGONS: HOW ARE AFRICA AND CHINA ENGAGING, AND HOW WILL THE PARTNERSHIP EVOLVE?, https://www.mckinsey.com/~/media/McKinsey/Featured%20Insights/Middle%20East%20and%20Africa/The%20closest%20look%20yet%20at%20Chinese%20economic%20engagement%20in%20Africa/Dance-of-the-lions-and-dragons.ashx.

JONES, BREEANA, RESOURCES FOR INFRASTRUCTURE: THE SUSTAINABILITY DYNAMICS OF SINO-AFRO TRADE (July 2013), http://www.syntao.com/Uploads/file/Resources%20for%20Infrastructure.pdf.

Keep an Eye on China's Innovations in Development Finance, UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT (February 26, 2018), https://unctad.org/en/pages/newsdetails.aspx?OriginalVersionID=1671.

Lammich, Georg, *China's Impact on Capacity Building in the African Union* (South-South Development Cooperation, Working Paper, 2014), https://www.uni-heidelberg.de/md/awi/ssdc_lammich.pdf.

臺灣大學學術期刊資料庫

Gamache, Lauren et al., *China's Trade and Investment Relationship with Africa*, UNITED STATES INTERNATIONAL TRADE COMMISSION EXECUTIVE BRIEFINGS ON TRADE (2013), https://www.usitc.gov/publications/332/2013-04_China-Africa%28GamacheHammerJones%29.pdf.

Lee, Il Houng et al., *Is China Over-Investing and Does It Matter?* (International Monetary Fund, Working Paper No. WP/12/277, 2012), https://www.imf.org/en/Publications/WP/Issues/2016/12/31/Is-China-Over-Investing-and-Does-it-Matter-4 0121.

Mages, Allison, *Driving Technology Diffusion Commercially*, WORLD TRADE ORGANIZATION (November 12, 2014), https://www.wto.org/english/tratop_e/trips_e/ipwrkshopnov14_e/H_Mages_Session_V.pdf.

Manero, Elizabeth, *China's Investment in Africa: The New Colonialism?*, HARVARD POLICY REVIEW (February 3, 2017), http://harvardpolitics.com/world/chinas-investment-in-africa-the-new-colonialism/.

Mbamalu, Socrates, *Plight of African Workers Under Chinese Employers*, AFRICAN LIBERTY (September 27, 2018), https://www.africanliberty.org/2018/09/27/plight-of-african-workers-under-chinese-employers/.

MEIXNER, MARIE ET AL. (2016), CHINA INVESTMENT POLICY: CONSEQUENCES FOR WORKERS, https://www.etuc.org/en/publication/china-investment-policy-consequences-workers.

Meservey, Joshua, *Chinese Corruption in Africa Undermines Beijing's Rhetoric About Friendship with the Continent*, HERITAGE FOUNDATION (August 8, 2018), https://www.heritage.org/global-politics/report/chinese-corruption-africa-undermines-beijings-rhetoric-about-friendship-the.

Moyo, Dambisa, *Beijing, a Boon for Africa*, THE NEW YORK TIMES (June 27, 2012), http://www.nytimes.com/2012/06/28/opinion/beijing-a-boon-for-afric a.html.

Olukya, Godfrey, *How a Racist Slur Aimed at a Few Offended Many and Put Africa's Chinese Community at Risk*, SOUTH CHINA MORNING POST (November 3, 2018, 4:00 PM), https://www.scmp.com/news/world/africa/article/2171494/how-racist-slur-aimed-few-offended-many-and-put-africas-chinese.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT (2012), MAPPING SUPPORT FOR AFRICA'S INFRASTRUCTURE INVESTMENT, http://unohrlls.org/custom-content/uploads/2013/09/Mapping-S upport-for-Africas-Infrastructure-Investment.pdf.

Piccone, Ted, *China's Long Game on Human Rights at the United Nations*, BROOKINGS (September 2018), https://www.brookings.edu/wp-content/uploads/2018/09/FP_20181009_china_human_rights.pdf.

Quinn, Andrew, *Clinton Warns Against "New Colonialism" in Africa*, REUTERS (June 11, 2011, 6:14 PM), http://www.reuters.com/article/us-clinton-africa-idUSTRE75A0RI20110611.

臺灣大學學術期刊資料庫

RAMO, JOSHUA COOPER (2009), THE BEIJING CONSENSUS: NOTES ON THE NEW PHYSICS OF CHINESE POWER, http://www.chinaelections.org/uploadfile/ 200909/20090918021638239.pdf.

Ronconi, Lucas, *Enforcement of Labor Regulations in Developing Countries*, IZA WORLD OF LABOUR (March 2019), https://wol.iza.org/articles/enfor cement-of-labor-regulations-in-developing-countries/long.

Sanusi, Lamido, *Africa Must Get Real About Chinese Ties*, FINANCIAL TIMES (March 12, 2013), http://www.ft.com/cms/s/0/562692b0-898c-11e2-ad3f-00144feabdc0.html#axzz3ZaBFDod4.

Schiere, Richard, *China and Africa: An Emerging Partnership for Development? — An Overview of Issues* (African Development Bank Group, Working Paper No. 125, 2011), https://www.sdgfund.org/china-and-africa-emerging-partnership-development-overview-issues.

Shelton, Dinah (2002), *Human Rights, Health and Environmental Protection: Linkages in Law and Practice*, WORLD HEALTH ORGANIZATION, https://www.who.int/hhr/information/Human_Rights_H ealth_and_Environmental_Protection.pdf.

Sow, Mariama, *Figures of the Week: Chinese Investment in Africa*, BROOKINGS (September 6, 2018), https://www.brookings.edu/blog/africa-in-focus/2018/09/06/figures-of-the-week-chinese-investment-in-africa/.

STAHL, ANNA KATHARINA (2016), CHINA'S RELATIONS WITH SUB-SAHARAN AFRICA, https://www.iai.it/sites/default/files/iaiwp1622.pdf.

Turin, Dustin R., *The Beijing Consensus: China's Alternative Development Model*, 2(1) INQUIRIES JOURNALS 1 (2010), http://www.inquiriesjournal.com/articles/134/the-beijing-consensus-chinas-alternative-development-model.

WILLIAMSON, JOHN (2010), BEIJING CONSENSUS VERSUS WASHINGTON CONSENSUS, https://relooney.com/NS3040/Washington-Consensus-Chapter.pdf.

WORLD FORESIGHT FORUM, THE BEIJING CONSENSUS: AN ALTERNATIVE APPROACH TO DEVELOPMENT (2011), https://hcss.nl/sites/default/files/files/reports/WFF02_Issue_Brief_The_Beijing_Consensus02.pdf.

You'll Be Fired if You Refuse: Labor Abuses in Zambia's Chinese State-owned Copper Mines, HUMAN RIGHTS WATCH (November 4, 2011), https://www.hrw.org/report/2011/11/04/youll-be-fired-if-you-refuse/labor-abuses-zambias-chinese-state-owned-copper-mines.

Zapf, Wolfgang, *Modernization Theory—and the Non-Western World* (WZB Berlin Social Science Center, Working Paper No. P 2004-003, 2004), https://www.econstor.eu/bitstream/10419/50239/1/393840433.pdf.

Africa Mining Vision February 2009, AFRICAN UNION (February 2009), htt

臺灣大學學術期刊資料庫

p://www.africaminingvision.org/amv_resources/AMV/Africa_Mining_Vision_English.pdf.

Other Sources

INTERNATIONAL INSTITUTE OF ENVIRONMENT AND DEVELOPMENT (2016), CHINESE BUSINESSES IN AFRICA: PERSPECTIVES ON CORPORATE SOCIAL RESPONSIBILITY AND THE ROLE OF CHINESE GOVERNMENT POLICIES.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT (2011), OECD GUIDELINES FOR MULTINATIONAL ENTERPRISES.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT (2018), OECD DUE DILIGENCE GUIDANCE FOR RESPONSIBLE BUSINESS CONDUCT.

WORLD BANK (1992), GUIDELINES ON THE TREATMENT OF FOREIGN DIRECT INVESTMENT.

臺灣大學學術期刊資料庫