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Ethiopia is one of the fastest growing economies in the world, achieving enormous economic growth averaging 10.6% over the past decade and leading in Foreign Direct Investment (FDI). According to the 2014 United Nations Conference on Trade and Development (UNCTAD) World Investment Report, FDI in Ethiopia has increased by 242% from 2012 to 2013. However, the excessive speed at which Ethiopia is seeking foreign investment into the country, specifically in the garment industry, has led to an exploitation of garment workers who are paid extremely low wages. To ensure garment workers are paid fairly, Ethiopia should establish a minimum wage law that reflects an amount that Ethiopians can actually live on.

Ethiopia is on its way to becoming the “China of Africa” of the garment industry. Over the past few years, the rising cost of doing business in China has incentivized manufacturing businesses, specifically clothing and textile companies, to look for cheaper alternatives in African countries. Ethiopia is attractive to foreign investors because it is an untapped resource, known as “one of the last remaining unindustrialized frontiers.” Furthermore, Ethiopia boasts a business-friendly environment, political stability, low energy cost, raw materials, lack of tariffs, and a great deal of cheap labor.

However, Ethiopia lacks minimum wage laws. While the country has labor laws, which reflect international standards of labor, the law does not establish a set minimum wage except in the domestic industry. Wages are generally set by employers or by a contract agreement between employer and employee; meaning that Ethiopians in the textile and clothing industry will have to make due with whatever wages they are given or risk having no income at all. In fact, this is exactly what has occurred: Ethiopia now holds the title for the lowest paid garment workers in the world. The government of Ethiopia argues that ratifying Convention 131 could be detrimental to employment, which is why it advocates for more flexibility in wages rather than creating a rigid national minimum wage. The Ethiopian government’s rationale is flawed. For young workers, who make up the bulk of factory workers in Ethiopia, setting a minimum wage would reduce unemployment. In a study of 31 countries during the mid-1990s in North Africa, Sub-Saharan Africa, Latin America and Asia, higher minimum wages were shown to have a positive effect on poverty by lowering the poverty rate. Comparatively, the employment rate remained unchanged when the minimum wage levels were increased. With Ethiopia aggressively pursuing the textile and clothing industry, a national minimum wage is essential to protect garment workers from further exploitation of being denied a livable wage. Therefore, Ethiopia must establish a minimum wage law that reflects an amount sufficient to provide food, shelter, education, and socialization.

While Ethiopia has made considerable gains in reducing poverty and increasing economic growth, sustainable economic growth requires the protection of its citizens’ rights to a livable wage. The next shirt you purchase at a nominal price may say “Made in Ethiopia,” but your economic gain should not come at the expense of protecting the right of factory workers to earn livable wages.

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ENDNOTES: THE EMERGENCE OF RIGHT-BASED APPROACHES TO RESOURCE GOVERNANCE IN AFRICA: FALSE START OR NEW DAWN?

See van Mil, supra note 6, at 59.
See David S. Sorenson, Global Pressure Point: The Dynamics of Political Dissent in Egypt, 27 Fletcher Forum of World Affairs 207, 211 (2003) (discussing how the Saudi regime pacified the population and reduced dissent through resource distribution).
See Stevens, supra note 21, at 17-19.
See id. at 5.
See van Mil, supra note 20, at 9-10 (discussing how the “rentier state” allows lower taxation and greater public spending on patronage and pacifying dissent); see also Ross, supra note 6, at 67 (“The idea that a rise in taxes relative to spending can produce democratizing rebellions is closely related to the notion of a political budget cycle. They both imply that citizens will support governments that provide them with more benefits and lower taxes, and try to replace ones that supply few benefits with higher taxes. If these tax rebellions occur in dictatorships, they can bring about transitions to democracy.”); see generally Ross, supra note 6, at 65-71 (discussing the fiscal theory to democracy, and how secrecy allows governments to hide the size of revenues from the public).
See Ross, supra note 6, at 59 (“But most undemocratic oil producers, and some partially democratic ones like Iran and Venezuela, take advantage of the slippery nature of oil revenues to keep them out of the public view.”).
See id. at 67 (“Secrecy is a key reason why oil revenues are so commonly squandered, why oil-fueled dictators can remain in power, since they can conceal evidence of their greed and incompetence; and why insurgents are generally reluctant to lay down their arms, because they distrust offers by the government to share their country’s oil revenues more equitably.”); see also id. at 59 (“Secrecy is intrinsically hard to measure. There is no easy way to document how much money a government is concealing from the public.”).
See id. at 80 (noting that “among autocracies, the oil-producing states have less budget transparency”); id at 81 (“The greater the oil wealth is, the more secretive the budget.”); see also id. at 82-83 (“Two patterns stand out: all countries were more likely to publicly disclose their expenditures than their revenues; and even though the oil producers published their expenditures at the same high rate as the non-oil producers, they were substantially more secretive about their revenues.”).
See id. at 82 (noting that “among autocracies, however, oil is associated with greater censorship”).
See id. at 70 (“Citizens in oil-producing countries, though, cannot directly observe how much their government collects in oil revenues. They must rely on the government and media for their information.”); id at 71 (“But autocrats in the oil states have more to gain from secrecy, because it allows them to fool their citizens into underestimating the size of the government’s revenues.”); see also van Mil, supra note 20, at 9 (noting that as governments gain external revenue sources, they decrease taxes, and “[t]he public is less likely to demand accountability from their governments, and governments become less transparent, accountable and responsive to the societies they govern.”).
See van Mil, supra note 20, at 9-10 (discussing how citizens of resource-rich states tend to fail to demand accountability, and as a result, their governments are less accountable).
See Ross, supra note 6, at 63 (“But from the late 1970s to the late 1990s, a wave of democracy swept across the globe, bringing freedom to countries in virtually every region—except the petroleum-rich countries of the Middle East, Africa, and the former Soviet Union.”).
See id. at 63 (“From 1980 to 2011, the democracy gap between the oil and non-oil states grew wider.”); see also id. at 67 (“Yet among the oil states—both in the Middle East and beyond—transitions to democracy have been exceedingly rare. Oil and democracy do not easily mix.”).
See id. at 63 (noting that “oil has kept autocrats in power by enabling them to increase spending, reduce taxes, buy the loyalty of the armed forces, and conceal their own corruption and incompetence.”).
See generally id., supra note 6, at 86-90 (noting the erosion of democracy with multiple examples in resource-rich, but poorer countries); see also id. at 87 (“Empowered democratic incumbents may not necessarily want their countries to remain democratic, however. In fact, they might try to remain in power longer by making their countries more autocratic.”); see id. (noting that wealthy democracies have strong checks and balances, but in less wealthy democracies, “incumments accumulate enough political influence to dismantle the checks and balances that would otherwise keep their government democratic”).


24. See Dias, supra note 20; see HRBA Portal, supra note 21 (According to the United Nations, other elements of good programming practices that are also essential under an HRBA include: i) People are recognized as key actors in their own development, rather than passive recipients of commodities and services; (ii) Participation is both a means and a goal; (iii) Strategies are empowering, not disempowering; (iv) Both outcomes and processes are monitored and evaluated; (v) analysis includes all stakeholders; (vi) Programmes focus on marginalized, disadvantaged, and excluded groups; (vii) The development process is locally owned; (viii) Programmes aim to reduce disparity; (ix) Both top-down and bottom-up approaches are used in synergy; (x) situation analysis is used to identify immediate, underlying, and basic causes of development problems; (xi) Measurable goals and targets are important in programming; (xii) strategic partnerships are developed and sustained; (xiii) Programmes support accountability to all stakeholders).

25. See UN HRBA Portal, supra note 21.


27. Boesen & Sano, supra note 19.


29. UN HRBA Portal, supra note 21.


32. Id. at 19-20.


34. See AFR. COMM’N ON HUMAN AND PEOPLE’S RIGHTS, RESOLUTION ON A HUMAN RIGHTS-BASED APPROACH TO NATURAL RESOURCES GOVERNANCE (2012) [HEREINAFTER AFR. COMM’N RESOLUTION], http://WWW.ACHPR.ORG/SESSIONS/51ST/RESOLUTIONS/224/.

35. Id.

36. Id.

37. The weight attached to soft law instruments is discussed in subsequent parts of this Article. See infra at Political Will.


41. Id.


46. See id. (mainstreaming human rights considerations into the design and approval of resource extraction projects is not directly addressed in any article of the Banjul Charter).

47. Aarhus Protocol, supra note 44.


49. AFR. COMM’N RESOLUTION, supra NOTE 34.

50. Id.

51. Id.

52. Id.

Afr. Comm’n Resolution, supra note 34.


See Afr. Comm’n Resolution, supra note 34.


See Greenspan, supra note 60 at 10.

See 2009 ECOWAS Directive, supra note 62, at art.16(3).

Id.

Id. at art. 16(4)

Id. at art. 1

Id. at art.6(3).

GREENSPAN, supra note 60, at 10.

2009 ECOWAS Directive, supra note 62, at art. 22(3).


Id.

Recommendations and Resolutions, supra note 73, at 5. (noting with deep concern the recent rise of large-scale land acquisitions also known as ‘land grabbing’ and the impact of domestic and Foreign Direct Investment in land, water and related natural resources).

Id. at 6.

Id.

Id. at 5 (noting that the Pan African parliament is “fully alarmed by the negative impacts on human rights especially on women, including unequal access to land and disruption of access to water).


Overview of the Pan-African Parliament, supra note 74.


Id.


Id. at 3.

Id.

See AFR. COMM’N RESOLUTION, SUPRA NOTE 34; SEE ALSO MINING WORKING GROUP, A RIGHTS-BASED APPROACH TO RESOURCE EXTRACTION IN THE PURSUIT OF SUSTAINABLE DEVELOPMENT 3 (2014), AVAILABLE AT HTTP://MININGWGF.WORDPRESS.COM/2014/05/ADVOCACY-BRIEF.PDF; BROWN, SUPRA NOTE 60, AT 2.

See Afr. Comm’n Resolution, supra note 34.

Id.


A good example is the World Bank Inspection Panel which was established by the World Bank in September 1993 to serve as an independent investigative forum through which individuals or communities who believe that they are, or are likely to be harmed, by a World Bank funded project to bring their concerns directly before the Board of Executive Directors of the World Bank. See Panel Mandate and Bank Policies, THE WORLD BANK, http://iewbapps.worldbank.org/apps/ip/Pages/Panel-Mandate.aspx (last visited Apr. 13, 2015) (providing the Resolutions which created the Panel).

For example, one of the strongest criticisms against the World Bank Inspection Panel is the lack of independence in its review process. To guarantee independence, a review panel should have full control over what it wishes to investigate in accordance with its own procedures after receiving a public request, without having to wait for the approval of a higher authority. See D. Clark, The World Bank and Human Rights: The Need for Greater Accountability, 15 Harv. Hum. Rts. J. 205, 219-20 (2002); Dana Clark, The Rise and Fall of Accountability, 6 Watershed 52, 52-55 (2001) (providing examples of lack of control in the World Bank Inspection Panel review process); D. Bradlow, The World Bank, the IMF, and Human Rights, 6 TRANSMISSION’S LAW & CONTEMP. PROBS. 47, 76-77 (1996).

“Free refers to a process that is self-directed by the community from whom consent is being sought, unencumbered by coercion, expectations or timelines that are externally imposed.” UN-REDD PROGRAMME, GUIDELINES ON FREE, Prior and Informed Consent 18 (2013).

“Prop” is a requirement that “information be provided before activities can be initiated, at the beginning or initiation of an activity, process or phase of implementation, including conceptualization, design, proposal, information, execution, and following evaluation.” Id. at 19. Information should be given well in advance to provide time for stakeholders to understand, access, and analyze information on the proposed activity. Id. ‘Informed’ refers to the full disclosure of the intent and scope of the projects and policies. This element focuses on “the type of information that should be provided prior to seeking consent and also as part of the on-going consent process.” Id. Information should be “accessible, clear, consistent, accurate, and transparent,” and should be delivered in appropriate language and format. Id. “Consent” refers to the decision made by indigenous peoples and other local communities reached through their customary decision-making process. “Consent must be sought and granted or withheld according to the unique formal or informal political-administrative dynamic of each community.” Id. at 20. Such consent must be freely and collectively given. Id. Decision-making must be by consensus and must be transparently given.
notes that development experts in his ministry lack knowledge of human rights and thus they are not in a position to implement the HRBA. Brigitte Hamm, A Human Rights Approach to Development, 23 HUM. RTS. Q. 1005, 1023 (2001).


120 See generally id.

121 See Andrew T. Guzman & Timothy L. Meyer, International Soft Law, 2 J. LEGAL ANALYSIS 171, 174-75, 183-84 (2010) (defining soft law as those legal instruments that are not directly enforceable in courts and tribunals but nonetheless have an impact on international relations and, ultimately, international law).


123 For example, resolutions have been described as attempts to impose norms of international law on dissenting minorities and to change radically the way in which international law is made. See O. Schachter, International Law in Theory and Practice (1991) (describing resolutions as attempts to impose norms of international law on dissenting minorities and to change radically the way in which international law is made); see also Anne Peters & Isabella Pagotto, Soft Law as a New Mode of Governance: A Legal Perspective 4 (New Modes of Governance Project, Project no. CITI-CT-2004-506392); F. Snyder, Soft Law and Institutional Practice in the European Community, in S. Martin (ed.) The Construction of Europe: Essays in Honour of Emilie Noel (Springer 1994) 198.

124 D. Forsythe, Human Rights in International Relations 12 (CUP 2006) (discussing the normative effects and importance of UN Resolutions and Declarations).

125 See Forsythe, supra note 123 (discussing the normative effects and importance of UN Resolutions and Declarations).

126 Afr. Comm’n Resolution, supra note 34.

127 See generally id.

128 ROSSALYN HIGGINS, PROBLEMS AND PROCESS; INTERNATIONAL LAW AND HOW WE USE IT 8-10 (Oxford University Press 1995).

129 See id. at 891.

130 See Timothy Meyer, Soft Law as Delegation, 32 FORDHAM INT’L L. J. 888, 891 (2009) (noting that ILO, UNESCO, AID, and others have created soft law, or have used existing soft law, to promote development goals).

www.unesc.org/1507.html.

131 See Afr. Comm’n Resolution, supra note 34
132 See e.g., CONSTITUTION OF NIGERIA (1999) (illustrating an example of Nigeria’s Constitution requiring treaties be enacted by the National Assembly in order to have the force of law).

134 See Gody Osa Igbaekemen et al., The Effect of Corruption on Socio-Economic Development of Nigeria, 10 CANADIAN SOC. SCI. 149, 149-50 (2014).
137 See Afr. Comm’n Resolution, supra note 34.
138 See id.
139 See id

ENDNOTES: THE ABSENCE OF NORTHERN NIGERIA’S SOCIAL DEVELOPMENT AND THE RISE OF BOKO HARAM continued from page 23

4 See Denselow, supra note 2.
5 See William Wallis, Blighted Economy in Nigeria’s North Fuels Brutal Insurgency, FINANCIAL TIMES (May 13, 2014), http://www.ft.com/cms/s/0/1f56242-daa-7-1e3-448-00144feabdc0.html#axzz3WShuiBCz.
7 See id.
8 See id.
9 See id.
10 See id.
11 See Lynn Taylor, Note, Boko Haram Terrorism- Reaching Across International Boundaries to Aid Nigeria in the Humanitarian Crisis, 21 ILSA J. INT’L & COMP. L. 1, 4 (Fall 2014)

ENDNOTES: “MADE IN ETHIOPIA” – THE NEW NORM IN THE GARMENT INDUSTRY continued from page 24

5 Id.
8 Folytn, supra note 4, at 3.
9 Id.
10 National Labour Law Profile, supra note 7, at 18.
Foltyn, supra note 4, at 3.  


Richard Anker, Estimating a Living Wage: A Methodological Review, INTERNATIONAL LABOUR OFFICE (2011) (defining livable wage as a wage "that workers and their families should be able to afford a basic, but decent, life style that is considered acceptable by society at its current level of economic development. Workers and their families should be able to live above the poverty level, and be able to participate in social and cultural life.").  

Siegel, supra note 11, at 1.