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From extraction to a possible redemption: Reclaiming Africa's right to development in an era of illicit flows, debt crises and global financial inequity

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Abstract: *Forty years after the adoption of the Declaration on the Right to Development (DRtD), its realisation remains elusive across Africa. Despite decades of economic growth, extreme poverty has risen, with sub-Saharan Africa now home to two-thirds of the global extreme poor. In this chapter I examine why the right to development (RtD), enshrined as a binding right in article 22 of the African Charter on Human and Peoples' Rights, remains unfulfilled. I argue that economic growth alone is insufficient. The continent is systematically drained by two interlocking channels: illicit financial flows (IFFs) and the crushing burden of external debt imposed by an inequitable global financial architecture. Africa loses an estimated $88,6 billion annually to IFFs and $74,5 billion to biased sovereign credit ratings, while external debt service reached $163 billion in 2024. Together, these legal and illicit outflows constitute a double haemorrhage exceeding the continent's development financing gap. I review the normative architecture of the RtD, the jurisprudence of the African Commission and Court, and the structural barriers to its realisation. I conclude that transformative reform of the global financial architecture, including fair credit rating practices, transparent debt restructuring and robust international cooperation for asset recovery is a prerequisite for fulfilling the promise of article 22.*

Résumé : *Après des décennies de controverses, le processus des Nations Unies visant à l'élaboration d'un instrument juridiquement contraignant sur le droit au développement (DaD) a atteint un tournant décisif. Le projet de pacte international sur le DaD de 2023 (projet de pacte) marque une avancée importante par rapport à la Déclaration de 1986, en instaurant des obligations juridiques fondées sur un traité. Pourtant, la transformation d'une déclaration en pacte ne précise pas en soi ce qui change, tant sur le fond que sur la forme. C'est là l'interrogation principale que je soulève dans cet article. Je soutiens que le projet de pacte doit être évalué non seulement à l'aune des obligations contraignantes qu'il crée, mais aussi en fonction de la manière dont il modifie la répartition du pouvoir de décision en matière de développement. Je développe le concept de « souveraineté en matière de développement » comme prisme conceptuel : il s'agit de la capacité, protégée juridiquement, des peuples et des États à participer de manière significative à la définition des objectifs, des priorités et des conditions du développement, dans un cadre qui protège les droits de l'homme, l'égalité*

et la durabilité, et qui reconnaît l'interdépendance internationale. Le projet de pacte contient des éléments importants de cette architecture, notamment la participation, l'autodétermination, la répartition équitable, la non-discrimination, la coopération internationale et le développement durable. Néanmoins, d'importantes lacunes subsistent. Il ne résout pas entièrement la tension entre l'action en faveur du développement et les structures économiques internationales, et ne précise pas suffisamment les conséquences des comportements des États puissants et des acteurs privés qui restreignent les choix en matière de développement. Je soutiens donc que l'importance constitutionnelle du projet de pacte réside moins dans la transformation formelle du droit au développement en un droit conventionnel que dans son potentiel à réorganiser la relation juridique entre développement, souveraineté, participation et responsabilité internationale.

Key words: *right to development; illicit financial flows; sovereign credit ratings; Africa Credit Rating Agency; global financial architecture*

1 Introduction

My purpose in this chapter is to review why 40 years after the adoption of the Declaration on the Right to Development (DRtD) that consecrated development as a human right, its realisation remains elusive on the African continent. It was in 1977 that the United Nations (UN) Commission on Human Rights adopted for the first time a resolution that formally recognised the (RtD) as a human right. In 1986 the United Nations adopted the DRtD. This document considers development as a comprehensive economic, social, cultural and political process, which aims at the constant improvement of the well-being of the population and of all individuals based on their active, free and meaningful participation in development and in the fair distribution of benefits resulting therefrom. The Declaration remains highly significant as it paved the way to integrate economic, social, cultural, civil and political aspects of human existence into a single international legal standard dedicated to human fulfilment.

Although at the global level, the RtD remains framed by a declaration, this right has been made legally binding on the African continent, notably through article 22 of the African Charter on Human and

Peoples' Rights (African Charter). State parties to the African Charter bear the duty, individually or collectively, to ensure the exercise of the RtD. This provision, unique among regional human rights instruments, establishes development not merely as a policy aspiration but as a justiciable entitlement of all African peoples. The recognition of the RtD as a human right has been confirmed through the jurisprudence of the African Commission on Human and Peoples' Rights (African Commission) as well as the African Court on Human and Peoples' Rights (African Court).

However, four decades after the adoption of the DRtD and the entry into force of the African Charter, this normative promise remains profoundly unfulfilled for the continent of 1,59 billion citizens. The lived reality of populations in Africa remains characterised by extreme poverty, food insecurity, high levels of inequality, lack of education, health care, basic infrastructure and absence of service delivery. According to a World Bank report, the number of people in sub-Saharan Africa living in extreme poverty rose from 282 million in 1990 to 464 million in 2024, and today the region is home to two-thirds of people living in extreme poverty.[1] Sub-Saharan Africa therefore appears to be the global epicentre of extreme poverty. Another report observes that extreme poverty affected 46 per cent of sub-Saharan Africa's population in 2024, up from 45,1 per cent in earlier estimates.[2] It is worth noting that the same report stated that 839 million people lived in extreme poverty as of 2024, an upward revision of approximately 22 million people compared to the June 2025 data vintage. The upward revision stems primarily from an increase in the extreme poverty rate of sub-Saharan Africa.[3] In the same vein, the 2025 Africa Sustainable Development Report confirms that while the continent is making progress on 12 of the 17 Sustainable Development Goals (SDGs), the current pace of progress is insufficient to achieve the SDGs by 2030. Of the 63 targets examined under SDGs

1 H Stemmler 'Getting to zero: Focusing on IDA countries for ending poverty', Getting to zero: Focusing on IDA countries for ending poverty (accessed 10 August 2026).

2 JH Lønborg and others 'September 2025 global poverty update from the World Bank: New data and regional classifications', September 2025 global poverty update from the World Bank: New data and regional classifications (accessed 10 August 2026).

3 As above.

3, 5, 8, 14 and 17, 46 are measurable and only two targets are on track to be achieved by 2030 (targets 14.5 and 17.19).[4]

Poverty and developmental stagnation persist despite decades of recorded economic growth across Africa. The overall economic growth across the continent has reached an average of 3,5 to 4,4 per cent in recent years but has not translated into an improvement of people's lives on the continent. This curious phenomenon, that is, the paradox of growth without development, is exacerbated by the systematic extraction of Africa's wealth through two interlocking channels including illicit financial flows (IFFs) and the crushing burden of debt servitude imposed by an inequitable global financial architecture. Together, these constitute a double haemorrhage that systematically bleeds the continent of the resources necessary for realising the RtD. As pointed out by the United Nations Conference on Trade and Development (UNCTAD), Africa loses an estimated $88,6 billion annually to IFFs, representing approximately 3,7 per cent of the continent's gross domestic product (GDP).[5] This figure is an update of the earlier report by the 2015 High-Level Panel on Illicit Financial Flows from Africa (HLP), which first presented the figure of approximately $50 billion annually through IFFs at the time.[6] Compounding this illicit drain is the legal but equally pernicious burden of external debt.

Africa's debt burden has reached historically significant levels. The United Nations Economic Commission for Africa (UNECA) estimates that the continent's external debt has reached approximately $1,2 trillion, representing a significant share of GDP with debt service payments absorbing more than one-quarter of public revenues in many African countries. The African Development Bank further observes that total debt service in Africa has more than doubled over the past decade, reaching $163 billion, while interest payments alone now

4 'Overview of the findings of the 2025 Africa Sustainable Development Report', PowerPoint Presentation (accessed 10 August 2026).

5 United Nations Conference on Trade and Development (UNCTAD) 'Economic Development in Africa Report 2020: Tackling Illicit Financial Flows for Sustainable Development in Africa' (2020), https://unctad.org/system/files/official-document/aldcafrica2020_en.pdf (accessed 10 June 2026).

6 High Level Panel on Illicit Flows from Africa 'Track it! Stop it! Get It! Report of the High-Level Panel on Illicit Financial Flows from Africa', Addis Ababa: Commissioned by the AU/ECA Conference of Ministers of Finance, Planning and Economic Development 2015, https://www.uneca.org/sites/default/files/PublicationFiles/iff_main_report_26feb_en.pdf (accessed 5 June 2026).

exceed public health budgets in 30 countries. In practical terms, this means classrooms not built, clinics not staffed or equipped, and jobs not created.[7] In addition to the debt burden, a report of the United Nations Development Programme (UNDP) on reducing the cost of financing for the continent found that African economies are systematically subject to biased sovereign credit ratings that overstate their risk profiles.[8]

The lived experiences of populations on the continent remain characterised by corruption, violent conflicts, political instability, *coups* and public debt crises. Bedjaoui observed that

> [t]his constitutes the challenge which the right to development throws down to contemporary international law and the whole of the challenge which the underdevelopment of four fifths of the globe places, in political terms, before the rulers of the world.[9]

Given that the realisation of the RtD on the continent remains frustrated by several factors despite economic growth and normative recognition, the question is how to address this challenge. My premise is that economic growth alone is not enough to allow for the realisation of the RtD. My central argument is that the RtD will remain elusive unless one confronts the systemic legal and structural barriers that drain the continent's resources. While domestic governance reforms remain essential, they are insufficient. A fundamental transformation of the global financial architecture, including fair representation for Africa, equitable credit rating practices, transparent debt restructuring mechanisms and robust international cooperation for asset recovery is a prerequisite for fulfilling the promise of article 22 of the African Charter. These are the focus of the following parts.

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7 United Nations Economic Commission for Africa 'African experts seek to innovate on debt reform, sustainable finance and fiscal resilience', African experts seek to innovate on debt reform, sustainable finance and fiscal resilience | Events | United Nations Economic Commission for Africa (accessed 5 June 2026).

8 United Nations Development Programme 'Strategy, Analysis and Research Team: Reducing the cost of finance for Africa, the role of sovereign credit ratings' (2023), https://www.undp.org/africa/publications/lowering-cost-borrowing-africa-role-sovereign-credit-ratings (accessed 10 June 2026).

9 M Bedjaoui 'International law: Achievements and prospects' in HJ Steiner & P Alston (eds) *International human rights in context: Law, politics, morals: Text and materials* (1991) 1120-1121.

2 The normative architecture of the right to development

The international framework needs to be distinguished from the regional framework.

2.1 International standards

2.1.1 Declarations on the right to development

As previously mentioned, it was in 1977 that a UN resolution recognised the RtD as a human right. The genesis of this move can be traced back to paragraph 6 of the 1948 Universal Declaration of Human Rights (Universal Declaration), which emphasises the obligation of member states under the UN Charter to promote universal respect for and observance of human rights and fundamental freedoms. The Universal Declaration further referred to the RtD as its article 28 guarantees everyone the right to a social and international order in which the rights and freedoms can be fully realised. To consolidate these developments, during its ninety-seventh plenary session held on 4 December 1986, the UN adopted by a vote of 146 to 1 and 8 abstentions the DRtD, of which the first article reads:

> The right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized.

The Declaration comprises 10 provisions dedicated to the meaning of the right as well as the stakeholders involved.

Another legal standard recognising the RtD at the global level is the 1993 Vienna Declaration and Programme of Action. This Declaration reaffirms the significance of the RtD, reiterates in line with the DRtD the universal and inalienable character of this right. The Vienna Declaration further echoes the 1986 Declaration, confirming the RtD to be part and parcel of fundamental human rights as provided by section 10, which reads: 'The World Conference on Human Rights reaffirms the right to development, as established in the Declaration on the Right to Development, as a universal and inalienable right and an integral part of fundamental human rights.'

Having reviewed the provisions of the RtD pertaining to the Universal Declaration, the 1986 DRtD and the 1993 Vienna Declaration and Programme of Action, it is worth noting that the RtD is considered part of customary international law. It is within this framework that Bedjaoui considers the RtD to be 'the alpha and the omega of human rights, the first and last human rights, the beginning and the end, the means and the goal of human rights, in short it is the core right from which all the other stem'.[10] He further points out that 'the right to development is, by its nature, so incontrovertible that it should be regarded as belonging to a norm of *jus cogens*'.[11] A norm of *jus cogens* is a vital principle in international law that binds all states and does not provide exceptions.

2.1.2 The current non-binding nature of international standards and their impacts on the realisation of the right to development

The Universal Declaration, the 1986 DRtD and the 1993 Vienna Declaration and Programme of Action are key documents that re-emphasised the relationships between human rights and human flourishing. The recurrent critique of these texts is about their nature which is that they nonetheless remain declarations; in other words, documents deprived of a legally binding force which in one way or another, contribute to the poor realisation of the RtD.[12] As it stands, the RtD has not yet attained the status of hard law on the international stage and is hardly comparable to other relevant texts on vital issues such as, for instance, the convention against corruption or convention against torture. Except the above-mentioned Declarations, there are vague allusions of the RtD by other policy documents such as the SDGs. Paragraph 35 of this text swiftly refers (between brackets) to the RtD by recognising the need to build peaceful, just and inclusive societies that provide equal access to justice and that are based on respect for human rights (including the right to development). Similarly, the SDG briefly refers to the DRtD's 'other instruments' that informed it (SDG).

10 Bedjaoui (n 9) 1117.
11 As above.
12 For further details, see GEK Kamga 'Is the proliferation of illicit financial flows from Africa the result of a lack of a legally binding international standard on the right to development?' in SD Kamga (ed) *The right to development in Africa: Issues, constraints and prospects* (2020) 285.

The gap between the implementation of soft laws, on the one hand, and hard laws, on the other, is axiomatic and this also applies to the RtD. It is easy and almost systematic for states to sign a declaration but not only is there no guarantee but, more importantly, there is no legal consequence if no step is taken or initiated to realise the content of such declaration. Within a context of real politics, exploitation, profit and imperial ambitions, the provisions of a declaration, despite their moral and ethical value, can quickly become mere wishful thinking. Steiner observes the following about the RtD: 'In terms of the degree of normativity, many writers consider that while it is undoubtedly an inalienable and imperative right, this is only in the moral, rather than in the legal, sphere.'[13]

Because it is framed by a mere declaration, which is a soft law instrument, the RtD is yet to impose itself as a core right in some areas of the world. Even if the RtD is more rooted in Africa and the Global South in general, several states, especially in the Global North, are yet to give it due consideration as is the case with other human rights. The lack of serious implementation of this right, therefore, remains linked both to its nature and to the fact that it remains essentially framed by soft laws. The notion of soft law has been the subject matter of intense debate and there is no general consensus as to its exact meaning.[14] The concept has been used in reference to international prescriptions that are deemed to lack requisite characteristics of international normativity, but which, notwithstanding this fact, are capable of producing certain legal effects.[15] Keeping the RtD through a never-ending process of custom formation poses a serious problem in terms of the international recognition of this right as a fundamental human right. The debate on the concept of soft law leads to a tricky observation, that is, soft law means different things to different people:

Some observers of this development have taken strong exception to the increasing usage of the term, defining it as a pathological phenomenon of international law; as introducing a graduated scale of normativity; as a practice that lends itself to legal pretension.[16]

13 Steiner & Alston (n 9) 1120.
14 GF Handl and others 'Proceedings of the Annual Meeting' (1988) 82 *American Society of International Law* 371.
15 Handl and others (n 14).
16 Handl and others (n 14).

The above quote reaffirms the limited importance assigned to soft law within the international legal architecture. Within this context, soft law amounts to turning relevant matters into a sphere of no or little normativity. The concept, so it could be argued persuasively, tends to blur the line between the law and the non-law, be that because merely aspirational norms are accorded legal status, albeit of a secondary nature; be that because the intended effect of its usage may be to undermine the status of established legal norms.[17] With regard to the argument according to which the RtD enjoys the same status as that of other fundamental rights, for it is part of the customary international law and constitutes a norm of *jus cogens,* this argument is debatable. The meaning of *jus cogens* is available in the Vienna Convention on the law of treaties, which states that a treaty is void if, at the time of its conclusion, it conflicts with a peremptory norm of general international law.[18] The RtD that is currently framed by the Declarations previously examined would be, with this provision, a peremptory norm of general international law. Yet, even if the norm of *jus cogens* refers to higher norms without exception, this may still raise issues. It is within this framework that the utility of *jus cogens* has been questioned while referring specifically to its rhetorical value as a sort of exclamation point.[19]

2.1.3 A turning point: The Draft International Covenant on the Right to Development

Amidst criticisms, a certainty remains, that is, the RtD is a fundamental human right and, for this reason, deserves to be genuinely enshrined in the body of international law through formal and compulsory commitments among the different actors. Back in 2007, the Human Rights Council set a work plan for its development rights group. The purpose was to vest the RtD with the exact same status as all other fundamental human rights. As mentioned in the introductory section of this key document, in its Resolution 51/7, the Human Rights Council requested the Chair-Rapporteur of the Working Group on the RtD to submit a second revised

17 As above.
18 Vienna Convention on the Law of Treaties UNTS Regis 18,232, UN Doc. A/CONF.39/27 (1969) art 53.
19 A d'Amato 'It's a bird, it's a plane, it's *jus cogens*!' (1990) 6 *Connecticut Journal of International Law* 1.

draft convention on the RtD to the Working Group at its twenty-fourth session for intergovernmental negotiation and, following that process, to submit the final draft text of the convention to the Council.[20] Section 1 of the Draft Covenant reaffirms its object and purpose, which is to promote and ensure the full, equal and meaningful enjoyment of the RtD by every individual and all peoples everywhere, and to guarantee its effective operationalisation and full implementation at the national and international levels. Similar to the above Declarations, the Draft International Covenant on the Right to Development reemphasises the nature and significance of the RtD and its place in relation to human flourishing. Section 4 in part II of this document reads as follows:

> (1) Every individual and all peoples have the inalienable right to development, by virtue of which they are entitled to participate in, contribute to and enjoy civil, cultural, economic, environmental, political and social development that is indivisible from and interdependent and interrelated with all other human rights and fundamental freedoms.
> (2) Every individual and all peoples have the right to active, free and meaningful participation in development and in the fair distribution of benefits resulting therefrom.

The above provisions are revolutionary owing to the place given to a people-centred, participatory, equitable and accountable process through which individuals and peoples can realise the full range of human rights and fundamental freedoms. The people-centred approach and the equal status of the RtD with other human rights is further echoed in section 6 entitled 'relationship with other human rights'. This section emphasises the commitments of state parties to reaffirm that every human right, including development, is equal, connected, and cannot be taken away. Through the second paragraph, states further agree that the RtD is a core human right that must work together with all civil, cultural, economic, environmental, political and social rights.

20 Z Akram 'Draft International Covenant on the Right to Development: Report by the Chair-Rapporteur of the Working Group on the Right to Development, Z Akram (Pakistan)' (2023) United Nations Digital Library, https://digitallibrary.un.org/record/4018149?ln=en&v=pdf (accessed 20 June 2026).

2.2 Regional standards

2.2.1 The African Charter on Human and Peoples' Rights

The African Charter is the primary regional human rights treaty on the continent. It was drafted by the Organisation of African Unity (OAU), the precursor to the African Union (AU). The Charter was adopted on 27 June 1981 in Nairobi, Kenya, and entered into force on 21 October 1986. As of today, the Charter is a landmark and ground-breaking treaty that has managed to blend individual rights with collective peoples' rights. It has successfully collapsed the boundaries between civil and political and economic, social and cultural rights while incorporating third-generation rights like development. The Charter offers a unique African perspective on human rights, and its enforcement relies on the promotional and protective work of the African Commission and the judicial authority of the African Court.

With regard to the RtD, the African Charter remains the only document that considers this right as a core human right in Africa. As of today, and while hoping for the adoption of the Draft International Covenant on the Right to Development, contrary to the Universal Declaration, the DRtD and the Vienna Declaration and Programme of Action, the African Charter is the only legally binding supranational instrument framing the RtD on the African continent. Section 22 of the African Charter reads as follows:

> All peoples have the right to their economic, social and cultural development with due regard to their freedom and identity and in the equal enjoyment of the common heritage of mankind. States shall have the duty, individually and collectively, to ensure the exercise of the right to development.

2.2.2 African jurisprudence on the right to development

The binding nature of the RtD on the African continent has been reaffirmed through the jurisprudence of the African Court and that of the African Commission. The African Court is the continental judicial body established by member states through a protocol adopted in 1998 that entered into force in 2004. The Court's headquarters is in Arusha, Tanzania and its core function is to protect human and peoples' rights on the continent through binding adjudication and authoritative

interpretation of human rights obligations under the African Charter and other related instruments.[21] One of the landmark cases pertaining to the RtD on which the African Court ruled is that of *Ogiek*.[22] In this case, the Ogiek, an indigenous hunter-gatherer community who have lived in the Mau Forest complex in Kenya for generations, were forcibly evicted from their ancestral lands without consultation, justification or adequate compensation by the Kenyan government, which justified the evictions on conservation grounds. The African Commission brought the case to the Court on behalf of the Ogiek community on the grounds that it involved evidence of serious or massive human rights violations. The communication argued that the eviction violated multiple provisions of the African Charter.[23] On 26 May 2017, following an eight-year process, the judges rejected Kenya's argument that the Mau Forest was public land immune from indigenous claims and affirmed that collective land tenure and cultural survival are protected under the African Charter. The Court held that conservation objectives 'could not lawfully be pursued through blanket displacement of an indigenous population'. In its 2022 reparations judgment, the Court ordered compensation and in December 2025 issued a Compliance Judgment ordering Kenya to pay 160 million Kenyan shillings (approximately $1,3 million).[24] This was the African Court's first merits decision on indigenous rights and its first judgment on the right to development.

Concerning the African Commission, it was established in 1987 under article 30 of the African Charter. Unlike the Court, the Commission operates through providing findings and recommendations rather than binding judgments. Its decisions are not legally binding but carry significant moral and political weight. One of the landmark cases in front of the African Commission is *Endorois*[25] In this case, the Endorois, an indigenous pastoralist community who had lived in the Lake Bogoria

21 The African Court exercises contentious jurisdiction, resolving disputes relating to violations of rights by state parties to the Protocol. It also exercises advisory jurisdiction, providing guidance on legal questions concerning African human rights law.

22 *African Commission on Human and Peoples' Rights v Republic of Kenya* Application 6/2012, https://www.african-court.org/cpmt/details-case/0062012 (accessed 20 July 2026) (*Ogiek*).

23 As above.

24 As above.

25 *Centre for Minority Rights Development & Another v Kenya* (2009) AHRLR 75 (ACHPR 2009) (*Endorois*).

area of Kenya since 'time immemorial', was forcibly evicted from their ancestral lands by the Kenyan government to establish a game reserve in 1970 and were relocated to arid land where many of their cattle died as they suffered severe hardships. After having exhausted domestic remedies, the community filed a complaint to the African Commission. In its 2009 ruling, the Commission found that Kenya had violated multiple provisions of the African Charter, including article 22 on the RtD.[26] It determined that Kenya's actions had abrogated the community's right to meaningful participation and freely given consent in development decisions affecting their lives. The Commission recommended the recognition of Endorois ownership of their ancestral land, its restitution, and the right to participate in future development.[27] This was the first ruling confirming the violation of the right to development under the African Charter.

3 Factors contributing to the elusive realisation of the right to development

In this part, I review the situations that contribute to an elusive realisation of the right to development in Africa. These include illicit financial flows, debt servitude and the inequitable global financial architecture.

3.1 Illicit financial flows and the paradox of growth without development

3.1.1 Recent figures on illicit financial flows

The UN reported that the number of people living in extreme poverty in sub-Saharan Africa increased from 290 million in 1990 to 414 million in 2010, making it the only developing region where this figure consistently rose during that period.[28] More recent data from the World Bank indicate that in 2024, sub-Saharan Africa was home to approximately 464 million people living in extreme poverty, accounting for 67 per cent of the

26 *Endorois* (n 25).
27 As above.
28 United Nations 'Steady progress on many Millennium Development Goals continues in sub-Saharan Africa' (2014), https://africarenewal.un.org/en/magazine/steady-progress-many-millennium-development-goals-continues-sub-saharan-africa (accessed 25 June 2026).

global extreme poor despite representing only 16 per cent of the world's population. Extreme poverty amounts to living below the international poverty line of $2,15.[29] This significant and growing crisis persists despite periods of substantial economic growth experienced across the continent, raising serious questions about the effectiveness of growth-driven development strategies in translating macro-economic gains into tangible improvements in poverty alleviation, social service provision and access to basic needs. The paradox of growth without development in Africa finds one of its root causes in the systematic outward drain of Africa's wealth and resources known as IFFs. The disconnect between economic performance and human development outcomes has become increasingly comprehensible when examining the proliferation of IFFs. The High-Level Panel on Illicit Financial Flows from Africa (HLP) first estimated in 2015 that the continent loses approximately $50 billion annually through these channels.[30] Subsequent research has revealed a dramatic escalation of this problem. According to the United Nations Conference on Trade and Development (UNCTAD), Africa now loses an estimated $88,6 billion annually to IFFs, representing approximately 3,7 per cent of the continent's GDP.[31] This figure exceeds the total official development assistance received by the continent, that is, approximately $48 billion and foreign direct investment, about $54 billion combined during the same period. Recent reports by the United Nations Economic Commission for Africa (UNECA) placed the figure even higher, estimating annual losses exceeding $90 billion.[32] The AU's follow-up report, commonly referred to as the 'Mbeki II' report, confirmed that the losses have nearly doubled since the original 2015 findings (African Union High-Level Panel on Illicit Financial Flows, 2025),[33] a figure also

29 S van Teutem 'One in six people live in sub-Saharan Africa, but it accounts for two-thirds of global extreme poverty' *Our World in Data* (2025), https://ourworldindata.org/data-insights/one-in-six-people-live-in-sub-saharan-africa-but-it-accounts-for-two-thirds-of-global-extreme-poverty (accessed 25 June 2026).

30 High Level Panel on Illicit Flows from Africa (n 6).

31 UNCTAD (n 5).

32 United Nations Economic Commission for Africa 'Economic Report on Africa 2025: Advancing the Implementation of the Agreement Establishing the African Continental Free Trade Area: Proposing Transformative Strategic Actions' (2025), https://www.uneca.org/eca-events/sites/default/files/resources/documents/com/2025/era2025/era2025_revmay16.pdf (accessed 10 June 2026).

33 AU HLP – IFF Secretariat's Report 'Successes and Challenges of Implementing the Recommendations of African Union High Level Panel on Illicit Financial

confirmed by data from the Mo Ibrahim Foundation in 2025 reporting that Africa loses roughly $90 billion per year to IFFs. More importantly, a recent assessment of an expert from the AU in 2025, which formally incorporates corruption into the calculation, placed total annual losses as high as $587 billion. The assessment does not attribute the entire $587 billion to corruption alone. Instead, it uses a broader formula of "financial leakages" and capital flight, which breaks down as follows: While direct corruption accounts for $148 billion of this toll, the sum total includes severe capital flight driven by multinational profit-shifting ($275 billion), illicit financial flows ($90 billion), and inflated risk perception premiums ($75 billion). This figure significantly surpasses the continent's estimated annual development financing need of approximately $472 billion.[34]

These figures remain merely estimates, as the clandestine nature of IFFs presents relevant challenges to data collection and verification. The underground character of this phenomenon, coupled with the difficulties in generating reliable statistics on the continent, means that the true scale of the problem is likely larger than official estimates suggest. Criminal networks rely on a diverse array of techniques to move money and assets across borders illegally. IFFs essentially occur through three main channels, namely, commercial activities that include trade mis-invoicing and transfer pricing manipulation, which constitute the largest source at approximately 65 per cent. The second channel is criminal activities, estimated at 30 per cent, and the third is corruption that accounts for approximately 5 per cent of IFFs.[35]

These outflows represent resources that could otherwise be invested in healthcare, education, infrastructure and other critical social services essential for breaking the cycle of poverty that continues to trap hundreds of millions of Africans. As coined in a previous publication,

Flows' (2025), https://codafrica.org/wp-content/uploads/2025/08/Successes-and-Challenges-of-Implementing-the-Recommendations-of-African-Union-High-Level-Panel-on-Illicit-Financial-Flows-Report.pdf (accessed 10 June 2026).

34 B Moss 'Africa's GDP could triple by 2035 with strategic agricultural investment' (2025), https://agrifocusafrica.com/2025/09/26/africas-gdp-could-triple-by-2035-with-strategic-agricultural-investment/ (accessed 15 June 2026).

35 United Nations 'Tackling illicit financial flows in Africa arising from taxation and illegal commercial practices' (2022), https://www.un.org/osaa/sites/default/files/tackling_iffs_in_tax_reform_and_illegal_commercial_practices_-_nov_2022.pdf (accessed 5 August 2026).

'there is a direct relationship of cause and effect between IFFs and the non-realisation of the RtD in Africa'.[36]

Connecting the above data to the RtD, these figures have a considerable meaning. In practice, the realisation of the RtD requires adequate fiscal resources to invest in education, health, infrastructure and social protection. Yet, over the years, the proliferation of IFFs has strongly contributed to drain resources from Africa. The resources stolen was sufficient to cover the continent's entire development financing gap.[37] When tens of billions of dollars flow out of Africa each year through trade mispricing, profit shifting, tax evasion and corruption, what is being stripped away is the educational opportunity for millions of African children, the access to basic health care for tens of millions of women, and the possibility for entire communities to escape the poverty trap.

3.1.2 Illicit financial flows and the erosion of state capacity and governance

IFFs further contribute to the weakening of public service and delivery capacity. A report from the UN Office reveals how African countries with high IFFs spend on average 58 per cent less on education and 25 per cent less on health than countries with low IFFs.[38] In other words, the fact that Africa loses approximately $90 billion annually to IFFs implies that the resources available for nurturing the next generation and safeguarding public health are disproportionately stripped away. The impacts of this deprivation are concrete and dire. The 2025 Africa Sustainable Development Report notes that since 2015, although Africa has made some health gains such as, for instance, life expectancy, this remains insufficient.[39] Underinvestment in education and health directly frustrates the realisation of the RtD. This contributes to nullifying the

36 GEK Kamga 'Linkages between illicit financial flows and the non-realisation of the right to development in Africa' (2019) 52 *Comparative and International Law Journal of Southern Africa* 169.

37 United Nations Economic Commission for Africa (n 32).

38 United Nations 'Illicit capital robbing Africa and its people of their future: UN trade and development chief' (2020), https://news.un.org/en/story/2020/09/1074052 (accessed 17 June 2026).

39 UNDP 2025 'Africa Sustainable Development Report (2025)', https://www.undp.org/africa/publications/2025-africa-sustainable-development-report (accessed 12 August 2026).

promise of the normative architecture of the RtD examined in an early part. The realisation of the RtD depends on resources as demonstrated throughout this chapter, but also on effective institutions and governance capacity. Yet, by corroding state institutions, violating the rule of law and eroding public trust, IFFs fundamentally undermine the institutional foundation for realising the RtD. IFFs often operate through collusion between national elites and transnational criminal networks. In terms of government revenue and with regard to Africa, one-sixth of the continent's aggregate government revenue comes from corporate taxation estimated at $67 billion in 2015. Most estimates suggest that the cost of tax avoidance amounts to a tenth of this figure. Corporate taxation is a more important share of government revenue in African countries than in OECD countries, mainly because African countries are unable to raise as much revenue from payroll taxes.[40] Multinational corporations use obscure and opaque techniques to shift profits from developing countries to tax havens. Corrupt officials hide stolen assets in offshore accounts. These practices directly affect fiscal operations while fostering a culture of impunity that affects state capacity to provide infrastructures, education, health care and basic service delivery. The amount of money shifted out of countries by multinational corporations is staggering.

Viewing this through the lens of the RtD, this erosion of governance capacity creates a vicious cycle: IFFs weaken fiscal capacity which in turn leads to deficient public services which also undermine the people's RtD, which ultimately leads to a decline in public trust. Within this context, it can be said that IFFs not only impede development but also contribute to a broader human rights crisis.

3.2 Debt servitude and the inequitable global financial architecture

While IFFs represent an overtly illicit drain on Africa's resources, the continent simultaneously faces a structurally enshrined, perfectly legal, but equally pernicious drain, that is, the crushing burden of external debt and the inequitable terms of the global financial institutions. This legal haemorrhage operates along the illegal one, creating a double squeeze that systematically forecloses the fiscal space required for realising the RtD.

40 UNCTAD (n 5).

The growing debt service on the continent has contributed to frustrate all development initiatives. A report by the Mo Ibrahim Foundation finds that in terms of debt and IFFs, Africa's external public debt nearly doubled, from $349,4 billion in 2014 to $690 billion in 2023, with debt service consuming almost 14 per cent of government spending, that is twice the allocation for health. The report further observes that the continent loses approximately $90 billion annually to IFFs, surpassing the $74 billion received in official development assistance in 2023.[41] Africa's external public debt appears to be a mechanism of direct transfer of resources away from classrooms, hospitals, and clean water infrastructure toward international creditors. This trend started decades ago and has now reached it full speed as confirmed by the following observation:[42]

> The rapidly growing debt-servicing burden is increasingly crowding out resources for essential public services and investments. External debt service rose from 1.6 per cent of GDP in 2011 to 4.1 per cent in 2022, and rose by nearly 8 percentage points of goods, services and primary income (figure 1.7). Africa's average interest payments reached an estimated 27 per cent of government revenues in 2024, up from 19 per cent in 2019. In some of the continent's largest economies including Angola, Egypt, Ghana, Nigeria, and Uganda, their interest payments have exceeded their total expenditures on education and health in recent years, highlighting the severe trade-offs faced by African countries when financing their development priorities.

The situation is worsened by structural biases embedded within the global credit rating system. In a report that presents a novel analysis on reducing the cost of financing for Africa, the United Nations Development Programme (UNDP) has empirically demonstrated that African economies are systematically subjected to biased sovereign credit ratings that overstate their risk profiles.[43] Rating agencies rely on sovereign ratings to communicate their opinion of the likelihood that a sovereign borrower will be able to repay their obligations fully and timeously. To construct these ratings, they make use of rating

41 Mo Ibrahim Foundation 'Financing the Africa we want' (2025), https://mo.ibrahim.foundation/sites/default/files/2025-05/2025-forum-facts-figures.pdf (accessed 10 June 2026).

42 United Nations Economic Commission for Africa (n 32).

43 United Nations Development Programme, Strategy, Analysis and Research Team 'Reducing the Cost of Finance for Africa, The Role of Sovereign Credit Ratings' (2023), https://www.undp.org/africa/publications/lowering-cost-borrowing-africa-role-sovereign-credit-ratings (accessed 10 June 2026).

methodologies and scorecards that draw on a variety of indicators which are then assessed by ratings committees within each agency.[44] Despite this clarification, there are, nevertheless, numerous studies that indicate that ratings agencies have historically exercised a negative bias against developing countries and that it took different forms, including 'home' bias, also referred to as cultural bias or proximity bias. Bias designed to preserve the market power of the 'big three' global rating agencies, bias arising from differences in how indicators used in rating scorecards are applied and interpreted and finally bias arising from differences in the marginal impacts on ratings that changes in indicators give rise to.[45] This bias forces African nations to borrow at significantly higher interest rates than their actual economic fundamentals warrant. Subjective biases and analytical errors by global rating agencies cost African economies around $74,5 billion annually in excessive interest payments and lost development funding. This phenomenon brings about artificial financial penalties, that often exceeds the total foreign aid provided to the continent. For instance, the amount of $74,5 billion is nearly 12 per cent more than all of Africa's net official development assistance in 2020.[46] When combined, the $90 billion lost to IFFs and the $74,5 billion lost to unfair credit ratings represent a combined annual haemorrhage of $164,5 billion, vastly exceeding the total development financing gap.[47]

Furthermore, the terms of official development assistance (ODA) and crisis response loans have reintroduced stringent conditionalities reminiscent of the structural adjustment programmes of the 1980s and 1990s. These conditionalities often impose austerity measures notably privatisation of public services, elimination of subsidies, and wage freezes that directly undermine governments' ability to invest in the social sectors essential for fulfilling the RtD. Such policy prescriptions override national sovereignty over development strategies, effectively

44 United Nations Conference on Trade and Development 'Credit rating agencies, developing countries and bias' (2025), Credit rating agencies, developing countries and bias - Policy review (accessed 10 June 2026).

45 As above.

46 United Nations Development Programme, Strategy, Analysis and Research Team (n 43).

47 United Nations Development Programme 'Sovereign credit ratings: Perspectives for Africa's development' (2025), https://www.undp.org/africa/credit-ratings-resource-platform/publications/sovereign-credit-ratings-perspectives-africas-development (accessed 10 June 2026).

forcing states to choose between repaying creditors and protecting their citizens' basic rights.

The combination of legal and illicit resource outflows creates a profoundly inequitable international regime. African countries are effectively financing the development of richer nations through interest payments, while simultaneously losing wealth through IFFs. The international financial architecture as currently designed will continue to raise key issues of inter-state justice and the obligations of creditor nations and global financial institutions must refrain from human rights violations through their inequitable and unfair policies and practices. The realisation of the RtD on the African continent and the Global South will not be possible, unless a comprehensive restructuring of the global financial architecture takes place. This would include debt cancellation for the most vulnerable countries, the establishment of a fair and transparent sovereign debt resolution mechanism, and urgent reforms to the credit rating industry.

3.3 The Africa Credit Rating Agency: An institutional response to biased assessments

In October 2026, the AU officially launched the Africa Credit Rating Agency (AfCRA) in Port Louis, Mauritius, marking a significant institutional response to the structural biases embedded in the global credit rating system.[48] The launch followed nearly a decade of advocacy by African leaders, who had long criticised the 'Big Three' agencies (Moody's, S&P and Fitch) for assessments that overstate the default risk of African borrowers and impose an unjustified 'African risk premium'. AfCRA is designed as a private sector-led, self-funded entity where African governments are barred from owning shares, a governance structure intended to safeguard its independence and credibility. It will rate African sovereigns, sub-sovereigns, corporates and financial institutions, and may extend coverage to non-African entities subject to management approval.

48 African Union 'Opening remarks by Mr Claver Gatete at the launch of the Africa Credit Rating Agency' (7 October 2026), https://www.uneca.org/stories/opening-remarks-by-mr.-claver-gatete-at-the-at-the-launch-of-the-africa-credit-rating-agency (accessed 11 October 2026).

The AU Commission Chairperson framed the initiative as a milestone in Africa's efforts to 'strengthen its financial architecture, advance economic sovereignty and ensure that African economies are assessed with greater depth, context and independence'.[49] He emphasised that credit ratings directly affect the cost and availability of capital, and that assessments failing to reflect African realities can constrain countries' ability to finance infrastructure, health, education and industrialisation. Importantly, AfCRA is not intended to replace the Big Three agencies, but to complement them by providing 'an additional, independent and Africa-focused perspective'.[50] It was further observed that AfCRA will not shield borrowers from scrutiny or guarantee favourable ratings and that its credibility depends on independence, professionalism, transparency and adherence to internationally recognised standards.

From the perspective of the RtD, AfCRA represents a concrete attempt to address one of the structural barriers identified in this chapter. The UNDP's finding that biased credit ratings cost Africa approximately $74,5 billion annually in excessive interest payments highlights the material consequences of the current system. By bringing African data, expertise and contextual understanding into the assessment process, AfCRA may help reduce the artificial risk premiums that drain resources from development priorities. However, its ultimate impact will depend on whether investors accept its ratings and whether it can build a track record of analytical rigour. As the UNECA Executive Secretary observed, 'a rating agency that cannot downgrade will not be believed when it upgrades'.[51]

The launch of AfCRA also illustrates the broader argument of this chapter, that is, the realisation of the RtD requires not only domestic governance reforms but also fundamental transformation of the global financial architecture.

49 As above.

50 United Nations 'Time for Africa to be rated fairly: Why the launch of AfCRA matters for Africa and the world' *Africa Renewal* 4 October 2026, https://africarenewal.un.org/en/magazine/time-africa-be-rated-fairly-why-launch-afcra-matters-africa-and-world (accessed 11 October 2026).

51 United Nations Economic Commission for Africa 'Opening remarks by Mr Claver Gatete at the launch of the Africa Credit Rating Agency' (7 October 2026), https://www.uneca.org/stories/opening-remarks-by-mr.-claver-gatete-at-the-at-the-launch-of-the-africa-credit-rating-agency (accessed 11 October 2026).

4 Global and regional policy responses and the future of the right to development

In response to the systemic assault on the RtD posed by IFFs and debt due to the global financial architecture, both the international community and African institutions must take actions.

4.1 Domestic-level recommendations

At the domestic level, three steps are needed: strengthening domestic resource mobilisation; criminalising and enforcing measures against IFFs; and operationalising the common African position on asset recovery. With regard to the first measure, African states must digitalise tax administrations, rationalise costly tax incentives, and modernise customs oversight. In a recent report, the Office of the Special Adviser on Africa highlighted that strengthening institutional systems is key to unlocking revenue potential, estimating that effective measures could increase domestic revenues by an equivalent of 13,6% of GDP.[52] It points to specific actions, such as modernising and digitalising tax administrations which have already dramatically reduced collection costs and rationalising costly and redundant tax incentives.

Second, concerning the criminalisation and enforcement measures against IFFs, the High-Level Panel on Illicit Financial Flows has called for criminalising IFFs, enforcing anti-money laundering laws, creating shareable corporate registration databases, and building the capacity of customs and tax officers. This panel warned that ten years after the first report of the African Union High Level, Africa is still struggling to put in place an inclusive, legitimate and functional coordination mechanism to realise a coherent and coordinated African response to IFFs.[53] Many of the recommendations establish that coordination between various stakeholders at different levels, national, regional, continental and global, is key to making any meaningful strides in the fight against IFFs. As demonstrated by a previous publication, combating IFFs requires not only technical reforms but also a reorientation of the normative

52 United Nations Office of the Special Adviser on Africa's 2025 Flagship Reports (2025), https://africarenewal.un.org/en/documents/office-special-adviser-africas-2025-flagship-reports (accessed 8 June 2026).

53 AU HLP – IFF Secretariat's Report (n 33).

framework governing resource governance, so that the RtD functions as a binding constraint on fiscal and commercial practices rather than a programmatic aspiration.[54]

Third, regarding the operationalisation of the Common African Position on Asset Recovery (CAPAR), the relevant working group mentioned that

> [a]ction should be taken to overcome the obstacles to the proper functioning of asset recovery initiatives in Africa, including providing legal and financial expertise and aligning domestic policy and institutional frameworks with global instruments. It was observed that the frameworks of asset recovery are mostly limited to the return of proceeds of corruption and illicit enrichment while efforts to repatriate proceeds of tax evasion usually depend on the efforts and abilities of individual companies.[55]

The High-level panel observes that although the United Nations Convention Against Corruption (UNCAC) and the African Union Convention on Preventing and Combating Corruption (AUCPCC) are anti-corruption instruments that incorporate asset recovery elements, CAPAR is the first fully-fledged African instrument focused on asset recovery, a manifestation of the African commitment to create an effective continental regime to recover illicitly lost assets.[56]

4.2 International-level recommendations

The recommendations under this part will look at addressing biased sovereign credit ratings, reforming the global financial architecture, reforming the G20 Common Framework, considering the UN Framework Convention on International Tax Cooperation, looking at the OHCHR Recommended Principles on Human Rights and Asset Recovery, resolution 58/7 on the negative impact of the non-repatriation of funds of illicit origin. Concerning biased sovereign credit ratings, I have demonstrated how the UNDP portrayed the extent to which biased credit ratings cost Africa approximately $74,5 billion annually in excessive interest payments. In June 2025, among the 34 countries in sub-Saharan Africa that have at least one sovereign credit rating, only two,

54 GEK Kamga, SD Kamga & A Kwesiga (eds) *Right to development and illicit financial flows from Africa: Dynamics, perspectives, and prospects* (2024).
55 AU HLP – IFF Secretariat (n 33).
56 As above.

including Botswana and Mauritius, were rated investment-grade while the other 30 were rated as 'speculative', implying higher interest costs and lower financing volumes.[57] Despite this finding, the 2026 report remains even more concerning:[58]

> (1) As of January 2026, of the 55 African countries, 20 countries (37%) remain unrated by the 'Big 3 Agencies', limiting their access to global capital markets, perpetuating reliance on high-cost borrowing.
> (2) Moody's maintains the widest coverage with 27 rated countries, followed by S&P Global and Fitch at 24 each.
> (3) Out of the rated countries, 95% fall into the Non-Investment/ Speculative/Junk Grade category, with only 3 countries (Botswana, Morocco, and Mauritius) maintaining Investment Grade status.
> (4) Despite Botswana possessing a higher per-capita purchasing power parity and sounder governance indicators than similar economies such as Indonesia, it's consistently assigned more negative outlooks, illustrating a systemic 'Africa Premium Bias' where African countries are penalized more heavily than global peers with weaker economic fundamentals.

The fact that only three African countries currently hold a coveted 'investment-grade' credit rating from the international rating agencies (Standard & Poor's, Moody's and Fitch) means that these nations represent the lowest risk profile for institutional investors on the continent. This was rejected by African officials that emphasised a broader critique of rating agencies' methodologies, which seem to prioritise short-term fiscal metrics over long-term growth potential.[59] It is therefore imperative for global financial institutions to review rating methodologies, tighten oversight of rating agencies.

In terms of reforming the global financial architecture, there have been calls for fairer representation of Africa, reducing the high cost of capital, and expanding access to long-term concessional finance. The UN Independent Expert on foreign debt has called for integrating human rights impact assessments into debt sustainability analysis, guaranteeing minimum investment in health and education during restructuring, and shifting decisionmaking power to multilateral, rights-based institutions. In her report dedicated to a principled approach to

57 United Nations Development Programme (n 47).
58 Development Reimagined 'Reimagining Africa's relationship with the credit rating system', https://developmentreimagined.com/research/credit-rating-agencies-cras/ (accessed 6 August 2026).
59 As above.

financial resource collection and allocation for the realisation of human rights, she recommended that 'IMF, the World Bank and all multilateral and bilateral lenders should cancel all debts, along with conditionalities, to enable Governments to use their fiscal and monetary instruments to provide basic services, implement policies for women's human rights and ensure social protection for all people'.[60] She further recommended that 'instead of loans, the international financial institutions and the Governments of the Global North should provide grants and fulfil their official development assistance commitments'.[61]

Concerning the reform of the G20 Common Framework, the 2025 G20 Africa Expert Panel focused on the following:[62]

- responding meaningfully and multilaterally to Africa's debt crisis today and addressing global factors that contribute to recurring debt issues;
- accelerating productive, job-creating investment in human and physical capital across Africa, supported by increased domestic resource mobilisation, regional cooperation on cross-border infrastructure, and data-rich country investment frameworks to enhance transparency, performance, and accountability;
- harnessing African DFIs (at continental, regional and national levels) as key facilitators of national investment frameworks through their advice and the provision of data and analyses needed for both public and private sectors to make productive investment decisions;
- multilateral action to complement African efforts by ensuring secure, stable, affordable, and long-term finance for infrastructure investment.

The report provides a series of recommendations including, among others, automatic debt standstills during negotiations, fair burden sharing across all creditors, broader eligibility, and capping debt service by ringfencing social expenditures.[63]

Regarding the UN Framework Convention on International Tax Cooperation, paragraph 2 of its Resolution 79/235, the General Assembly decided to adopt the terms of reference for a United Nations Framework

60 United Nations 'Fiscal legitimacy through human rights: A principled approach to financial resource collection and allocation for the realization of human rights. Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, Attiya Waris' (2024).
61 As above.
62 'Growth, debt and development: Opportunities for a New African Partnership. Report of the South Africa G20 Africa Expert Panel for the G20 Leaders' Summit' (2025), https://africaexpertpanel.org/ (accessed 6 August 2026).
63 As above.

Convention on International Tax Cooperation.[64] Among the goals of this document, establishing an inclusive, fair, transparent, efficient, equitable and effective international tax system for sustainable development, with a view to enhancing the legitimacy, certainty, resilience and fairness of international tax rules, while addressing challenges to strengthening domestic resource mobilisation. In terms of resources to support the work of the intergovernmental negotiating committee, it is mentioned that member states and other relevant stakeholders in a position to do so are encouraged to assist in ensuring the full and effective participation of developing countries, including in particular the least developed countries, in the negotiation of the framework convention, including by covering travel and local expenses and through capacity-building.

Regarding the OHCHR's Recommended Principles on Human Rights and Asset Recovery, this document requires that returned funds be used transparently with public oversight, victims be involved in decisions on reparative use, and returned assets deliver measurable human rights results. The document further stated that 'stolen assets, and corruption more broadly, are human rights issues because acts of corruption have a negative impact on the realisation of human rights, and in some cases acts of corruption can even violate human rights'.[65]

In terms of repatriation, on 2 April 2025, the UN Human Rights Council adopted Resolution 58/7 on the negative impact of the non-repatriation of funds of illicit origin to the countries of origin on the enjoyment of human rights, and the importance of improving international cooperation. This text explicitly recognised 'the negative impact of illicit financial flows on the enjoyment of human rights, to further explore policy responses to the phenomenon and to coordinate their efforts in this regard'.[66]

64 United Nations 'Terms of reference for a United Nations Framework Convention on International Tax Cooperation' (2025), https://financing.desa.un.org/document/terms-reference-united-nations-framework-convention-international-tax-cooperation (accessed 7 August 2026).

65 United Nations, Office of the High Commissioner OHCHR Recommended Principles on Human Rights and Asset Recovery (2022), https://digitallibrary.un.org/record/3978428?ln=en&v=pdf (accessed 9 August 2026).

66 United Nations Human Rights Council 'Resolution adopted by the Human Rights Council on 2 April 2025 58/7. The negative impact of the non-repatriation of funds of illicit origin to the countries of origin on the enjoyment of human rights, and the importance of improving international cooperation', https://digitallibrary.un.org/record/4082983?v=pdf#files (accessed 10 August 2026).

4.3 Regional-level recommendations

At the regional level, the AU HighLevel Panel suggested that the African continent needs to focus on financing its growth through its own financial systems, including establishing a network of public policydriven monetary institutions and strengthening pan-African banks.[67] Currently, intra-African trade accounts for just 15 to 18 per cent of total African trade, compared to 68 per cent in Europe and 59 per cent in Asia. To address this, it is suggested that the African Continental Free Trade Area (AfCFTA), which represents a $3,4 trillion intra-continental market, should be used to integrate African economies, mobilise intra-African investment, and invest in sustainable infrastructure and regional value chains.[68] The idea is to significantly address the infrastructure gaps that currently constrain trade flows across African borders. Developing multimodal transport corridors, cross-border infrastructure, logistics hubs, ports, and airports to seamlessly connect African markets and reduce the cost of doing business across borders is the way forward.[69]

In 2025, the AU released a comprehensive followup report assessing progress on the recommendations of the 2015 HighLevel Panel. This report confirms that Africa's losses have risen substantially from the earlier estimate of $50 billion per year and to up to $587 billion when corruption is included.[70] The AU has set up several instruments to curb illegal transactions. In addition to a pan-African cooperation platform, several working groups have been established to recover stolen assets abroad, and control economic sectors such as mining, which are particularly vulnerable to undeclared exports.[71] Article 51 of the United Nations Convention against Corruption (UNCAC) provides that returning stolen assets is central to justice, accountability, and repairing

67 AU HLP – IFF Secretariat (n 33).
68 African Development Bank, AfCFTA Secretariat, and Africa50 Unite to Unlock $3.4 Trillion Continental Market Through Strategic Infrastructure Development (2025), https://www.afdb.org/en/news-and-events/press-releases/african-development-bank-afcfta-secretariat-and-africa50-unite-unlock-34-trillion-continental-market-through-strategic-infrastructure-development-86228 (accessed 10 June 2026).
69 As above.
70 AU HLP – IFF Secretariat (n 33).
71 M Schwilkowski 'How illegal financial flows stifle Africa's growth' *DW* (2025), https://www.dw.com/en/how-illegal-financial-flows-stifle-africas-growth/a-73868667 (accessed 10 June 2026).

the harm caused by corruption. Yet, in practice, many states continue to struggle to recover and return assets located abroad. While in the European Union the recovery rate of stolen assets is extremely low, estimated at only about 2 per cent of criminal assets being successfully returned to their countries of origin, the equivalent rate is not available for Africa, but it is likely that this estimate might be even lower, reaching less than 1 per cent of total outflows.[72]

The launch of AfCRA adds a further institutional dimension to these regional efforts. By expanding ratings coverage and providing assessments grounded in African data and expertise, AfCRA may help address the information asymmetries that contribute to the 'Africa Premium Bias' documented by the UNDP and others. As UNECA has observed, more accurate and transparent ratings are important, but they are only part of the answer. Countries must also strengthen macro-economic management, domestic resource mobilisation, public financial management and debt transparency. The AU's initiative thus complements broader efforts to reform the global financial architecture, while recognising that African agency and institutional innovation must be matched by international cooperation and systemic reform.

5 Conclusion

My aim in this chapter was to examine the systemic assault on the RtD in Africa, focusing on the dual external drains of IFFs and the crushing burden of debt servitude imposed by an inequitable global financial architecture. The evidence presented demonstrates that while the African Charter, especially article 22, provides a robust normative framework for the RtD, this promise remains largely unfulfilled for the continent of nearly 1,59 billion people. The African continent loses approximately $88,6 billion annually to IFFs, a figure updated by the Mo Ibrahim Foundation to $90 billion per year, while the AU's 2025 assessment, incorporating corruption, places annual losses as high as $587 billion, exceeding the continent's total annual development financing need of approximately $472 billion. Meanwhile, Africa's external public debt

72 S Brimbeuf 'What global data tells us about asset recovery: insights from the Star Asset Recovery Watch' (2026), https://uncaccoalition.org/what-global-data-tells-us-about-asset-recovery-insights-from-the-star-asset-recovery-watch/ (accessed 10 June 2026).

nearly doubled from $349,4 billion in 2014 to $690 billion in 2023. In 2024, debt service payments reached $102,6 billion, that is, 13,6 per cent of government expenditure, almost double the health spending share of 7,3%. The UNDP has further demonstrated that biased sovereign credit ratings cost Africa an additional $74,5 billion annually in excessive interest payments. Together, these legal and illicit outflows represent a combined annual haemorrhage of $164,5 billion, far exceeding the continent's development financing gap.

The jurisprudence of the African Commission and the African Court has progressively articulated the content and scope of the RtD. The Commission's landmark decision in *Endorois* has established that large-scale development projects require free, prior and informed consent and meaningful participation of affected communities. The African Court's judgments in *Ogiek* affirmed the justiciability and enforceability of article 22 of the African Charter.

However, jurisprudence alone cannot reverse the systemic extractive dynamics at play. The RtD in Africa remains frustrated not merely by domestic governance deficits, but by structural inequities embedded in the global financial architecture. The genuine realisation of this right will ultimately depend on breaking the predatory network woven by IFFs and the inequitable financial architecture. The RtD, as enshrined in the African Charter, is not an abstract aspiration but a justiciable entitlement. Its realisation demands not only African agency but also the fulfilment by the international community of its extraterritorial human rights obligations. Without confronting the systemic legal and structural barriers that drain Africa's resources, the continent's development agenda will remain trapped in a cycle of extraction, indebtedness, and frustrated promise. The time for transformative change anchored in the principles of justice, equity and reparative justice is now.

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