

NEW PARTNERSHIP FOR AFRICA'S DEVELOPMENT MECHANISMS AND THE CHALLENGE OF PEACE AND SECURITY

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The New Partnership for Africa's Development (NePAD) is held out as an African devised and led framework that will put Africa in charge of the engine room of her development, reposition her for sustainable development and growth, introduce good governance, peace and security, create access to markets and investments and increase Overseas Development Assistance (ODA) flows, debt relief, etc. It will ensure that Africa will no longer be a ward of benevolent guardians but rather, an architect of its own sustained development. It holds out the promise of a bright future based on a real partnership between Africa and the developed world, and on accountability and mutual respect.

The promoters of NePAD have described it as follows:

“The New Partnership for Africa's Development (NePAD) is a holistic, integrated, sustainable development initiative for the economic and social revival of Africa involving a constructive partnership between Africa and the developed world. It is a pledge by African leaders, based on a common vision and a firm and shared conviction that they have a pressing duty to eradicate poverty and to place their countries, both individually and collectively, on a path of sustainable growth and development, at the same time, to participate actively in the world economy and body politic. The initiative is anchored on the determination of Africans to extricate themselves and the continent from the malaise of underdevelopment and exclusion in a globalising world. It is a call for a new relationship of partnership between Africa and the international community to overcome the development chasm. The partnership is to be founded on a realization of common interest, obligations, commitments, benefits and equality.

*The NePAD offers a historic opportunity for the advanced countries of the world to enter into a genuine partnership with Africa, based on mutual interest and benefit, shared commitment and binding agreement, under African leadership. In proposing the partnership, Africa recognizes that it holds the key to its own development. The adoption of a development strategy, together with a detailed programme of action marks the beginning of a new phase in the partnership and cooperation between African and the developed world, including multilateral organizations”.*¹

The fact of a new partnership acknowledges the existence of an old partnership that did not work or serve its purpose and leading to the quest for a new partnership². It is important to clarify that what existed between African and the rest of the world from slave trade to colonial and present times is not a partnership because a partnership involves people associating with others in a common understanding, sharing risks and profits. Slavery and colonialism were not based on any common understanding of the parties but on subjugation, while the current nation state project engenders inequality between African states and states in other parts of the world in

¹ NePAD Background, International Commitment (2) htm 26/03/02., pg. 1

² See the meaning of *partnership* in the New Lexicon Webster's Dictionary of the English Language, 1996 print, at page 732.

virtually all facets of life. Thus the word partnership may not fit the relationship between Africa and the rest of the world³.

Africa in the past had several initiatives, frameworks and processes that targeted development and by extension the peace and security of the Continent. The list, although not exhaustive includes the Lagos Plan of Action for the Economic Development of Africa (1980-2000)⁴ and the Final Act of Lagos 1980; Accelerated Development in Sub Saharan Africa- An Agenda for Action⁵; Africa's Priority Programme for Economic Recovery (APPER) 1986-1990⁶ and later made into the United Nations Programme of Action for Africa's Economic Recovery and Development (UN-PAARED) 1986-1990; the African Alternative Framework to Structural Adjustment Programme for Socio-Economic Recovery and Transformation (AAF-SAP) 1989⁷; the African Charter for Popular Participation in Development (1990) and the United Nations New Agenda for the Development of Africa in the 1990's (UN-NADAF) 1991; Conference on Security, Stability, Development and Cooperation; the Abuja Treaty Establishing the African Economic Community etc.

METHODOLOGY

This paper will review the NePAD framework particularly its provisions for peace, security and good governance including the proposed peer review mechanism. It will also examine the theoretical and practical bases for the provisions in a bid to find out their practicability. The conception of peace and security here will move away from the narrow concept of peace as the absence of war or physical violence; peace is not to be interpreted to mean the peace of the graveyard when death conquers its victim or the peace between the oppressor and the oppressed because the oppressed has no capacity to fight back.

Security on the other hand is to be given a wide and liberal conception which fully appreciates the complexities of modern life and the fact that human security which guarantees livelihoods, food, education, health, adequate standard of living and sustainable ecosystems, etc is a more comprehensive and realistic form of security which will most likely prevent wars. Further, there can be no peace or security unless human rights and fundamental freedoms are guaranteed⁸ by the rule of law.

³ This paragraph is borrowed from my previous work *Perspectives on the New Partnership for Africa's Development*; Journal of Economic, Social and Cultural Rights, published by SERI, Vol. 1 No.3 January – March 2002.

⁴ The *Lagos Plan of Action for the Implementation of the Monrovia Strategy for the Economic Development of Africa* 1980 is a product of the resolution of the sixteenth Assembly of the Heads of States and Government of the OAU to hold a special economic summit to find a suitable response to the deepening economic crisis in Africa.

⁵ Prepared by the World Bank in 1981 apparently in response to the Lagos Plan of Action.

⁶ Approved by the twenty first ordinary meeting of the Assembly of Heads of States and Governments of the Organisation for Africa Unity, July 18-20 1985.

⁷ Adopted by African Finance Ministers and other Government officials that convened in Blantyre, Malawi in March 1989 under the auspices of the United Nations Economic Commission for Africa.

⁸ See preambular paragraph 3 of the Universal Declaration on Human Rights postulation: *whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression that human rights should be protected by the rule of law* - UDHR adopted and proclaimed by United Nations General Assembly resolution 217 A (111) of 10 December 1948.

The paper will review the position of the African Union on peace and security, governance, agriculture and food security, etc since NePAD is a framework of the Union. The paper will end with conclusions and recommendations flowing from the analytical positions.

OVERVIEW OF NEPAD

NePAD starts with an introduction and proceeds to Africa in today's world-between poverty and prosperity, the historical impoverishment of a people, Africa and the global revolution; the new political will of African leaders; appeal to the peoples of Africa; programme of action- the strategy for achieving growth in the 21st century. The long-term objectives of NePAD are stated as follows;

Long-term objectives⁹

- To eradicate poverty in Africa and to place African countries, both individually and collectively on a path of sustainable growth and development and thus halt the marginalisation of Africa in the globalisation process.
- To promote the role of women in all activities

Goals¹⁰

- To achieve and sustain an average gross domestic product (GDP) growth rate of over 7 percent per annum for the next 15 years;
- To ensure that the continent achieves the agreed International Development Goals (IDGs) which are:
 - o To reduce the proportion of people living in extreme poverty by half between 1990 and 2015;
 - o To enrol all children of school age in primary schools by 2015;
 - o To make progress towards gender equality and empowering women by eliminating gender disparities in the enrolment in primary and secondary education by 2005;
 - o To reduce infant and child mortality ratios by two-thirds between 1990 and 2015;
 - o To reduce maternal mortality ratios by three-quarters between 1990 and 2015
 - o To provide access for all who need reproductive health service by 2015;
 - o To implement national strategies for sustainable development by 2005, so as to reverse the loss of environmental resources by 2015.

There is the peace, security, democracy and political governance initiatives. At the introductory level, NePAD acknowledges that “peace, security, democracy, good governance, human rights and sound economic management are conditions for sustainable development”¹¹ and pledged to work to promote these principles.

Under the Peace and Security Initiative, three main elements are put forward to wit; promoting long-term conditions for development and security; building the capacity of African institutions

⁹ Article 67 of NEPAD.

¹⁰ Article 68 of NEPAD.

¹¹ Article 71 of NePAD.

for early warning, as well as enhancing the capacity to prevent, manage and resolve conflicts and institutionalising commitment to the core values of NePAD through the leadership. It also recognised that “long-term efforts for ensuring peace and security in Africa require policy measures for addressing the political and social vulnerabilities on which conflict is premised”.

Further, NePAD states that:

Efforts to build Africa’s capacity to manage all aspects of conflict must focus on the means necessary to strengthen existing regional and sub-regional institutions, especially in four key areas

- Prevention, management and resolution of conflict
- Peacemaking, peacekeeping and peace enforcement
- Post conflict reconciliation, rehabilitation and reconstruction
- Combating the illicit proliferation of small arms, light weapons and landmines¹²

The Democracy and Political Governance Initiative, the Economic and Corporate Governance Initiative, regional and sub-regional approaches to development follow. Sectoral priorities including infrastructure, bridging the digital divide, energy, transportation, water and sanitation are treated while the Human Resource Development Initiative including the reversal of the Brain drain details poverty reduction, reversal of the brain drain, health and agriculture. The Environment Initiative is focussed on combating desertification, wetland conservation, and coastal management, global warming, cross border conservation areas, environmental governance and financing. Provisions are also made for culture, science and technology platforms and the Capital Flows Initiative (CPI). For the CPI, there is increasing domestic resource mobilisation, overseas development assistance reforms and private capital flows. There is the Market Access Initiative which involves diversification of production, agriculture, mining, manufacturing, tourism, services, promoting the private sector and promoting African exports and removal of non tariff-barriers. Other sections deal with a New Global Partnership, Implementation of the Partnership and a Conclusion.

ANALYSING PEACE AND SECURITY

Peace is that state and sense of safety which is necessary to the comfort and happiness of every citizen and which government is instituted to secure...¹³ The tranquillity enjoyed by a political society internally, by the good order, which reigns among its members, and externally by the good understanding it has with all other nations. Applied to the internal regulations of a nation, peace imports, in a technical sense, not merely a state of repose and security as opposed to one or violence or warfare, but likewise a state of public order and decorum.¹⁴ Thus peace must not refer only to the absence of violence and war but the absence of a threat of war or violence. Peace is noted as one of the preconditions for sustainable development in Africa.

The poser that arises from the above definition is: what makes citizens to feel that state and “sense of safety”. In Nigeria’s constitutional jurisprudence, it is declared that the security and welfare of the people is the primary purpose of government.¹⁵ In answering the poser, it must be

¹² Article 74 of NePAD.

¹³ *State v Boles* 5 Conn. Cir. 22, 240 A.2d 920, 927- a definition for the purposes of the Breach of Peace Statute.

¹⁴ *Catlette v U.S*, C.C.A.W.Va, 132 F.2d 902, 906.

¹⁵ See section 14 (2) (b) of the Constitution of the Federal Republic of Nigeria, 1999.

noted that the feeling and sense of safety is occasioned by a deeper and more complex satisfaction of needs than the mere absence of war.

The word security is about being untroubled by danger or fear, the state of being safe, reliable, stable and a guarantee of freedom. Modern notions of security go beyond physical maintenance of life. It includes food security, health security, social security and generally, freedom from want. A related concept is welfare, which is about wellbeing, happiness, health and prosperity of a people.

For security, there are various interpretations and conceptions. The first is the conception of security as national security, which is interpreted to mean “regime security” and securing the borders of the state from external aggression. In many countries of Africa, governments (particularly unpopular ones) are threatened with overthrow by military interventions or other unconstitutional means. As such, national security focuses on maintaining a particular regime in power. National security could also be expanded, apart from regime security and securing the borders, to include human security which is about peace building embracing seven dimensions to wit: economic, food, health, environmental, personal, community and political¹⁶. Most of these issues find further elaboration in the works of the United Nations agencies like the UNDP¹⁷ and the Committee on Economic, Social and Cultural Rights¹⁸.

African states have ratified a number of international human rights treaties dealing with civil and political rights as well as economic, social, cultural rights and collective rights.¹⁹ They have also ratified specific conventions like the Convention on the Elimination of All forms of Discrimination Against Women and the Convention on the Rights of the Child. At the African regional level, there is the African Charter on Human and Peoples’ Rights and the African Charter on the Rights and Welfare of the Child. These standards and the Universal Declaration of Human Rights, elucidate the meaning of human rights and fundamental freedoms and life in larger freedom found in the Charter of the United Nations²⁰. Based on the indivisibility,

¹⁶ United Nations Development program (UNDP) Human Development Report 1994.

¹⁷ UNDP,ibid.

¹⁸ General Comments of the Committee elucidate and delineate the peculiar contours of rights protected in the Covenant on Economic, Social and Cultural Rights.

¹⁹ International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

²⁰ Article 1

The Purposes of the United Nations are:

1. To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace;
2. To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace;
3. To achieve internal co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion; and
4. To be a centre for harmonizing the actions of nations in the attainment of these common ends.

For international economic and social cooperation, articles 55 and 56 of the UN Charter state as follows:

Article 55

interrelatedness and interconnectedness of all human rights and fundamental freedoms²¹, political security issues cannot be divorced from the question of security for the material living conditions of the people. Thus, there must be security from both violent and non-violent threats to lives and wellbeing.

But can there be peace and security without good governance, accountability and democratic government? It appears that peace and security may become elusive without the foregoing. In many African states, presidents and heads of state have been in power for so many years. They have both lost focus and direction or have taken the people for granted over the years. In places where elections are held, they are manipulated in favour of incumbents as happened recently in Zimbabwe, Nigeria, Uganda, etc. The leadership in many states are neck-deep in corruption while championing a new good governance vision for Africa.

For a peaceful and secure Africa, the vision must extend beyond the horizons of violent wars and seek to question the basis of conflicts and wars on the Continent.

SOURCES OR REASONS FOR CONFLICT AND INSECURITY

The arbitrary collation of ethnic groups and peoples and their cobbling into states by the colonial powers laid the foundation of conflicts and wars on the continent. Historical ties and affinities were not part of the considerations that determined where a group was “posted”. Sufficient autonomies for smaller groups and minorities and institutional structures for conflict prevention were also not in place in many states at the time of the departure of the colonial masters.

Conflict and violence is also fuelled by the problem of stagnated and failed economies and these failed economies partly proceeded from failed democratisation processes and inept leadership. In many instances, power is centralised and there is little or no room for popular participation. Tolerance of opposition views remains minimal.

Some of the failed and stagnated economies were in the later years products of structural adjustments and the prevailing neo-liberal paradigm, which emphasises the market as if it is an end in itself. The case of Zimbabwe and its adjustment policy which led to the economic crisis that later translated into a political crisis is an example.

States that had lost the legitimacy to continue to exercise legal authority over citizens insisted on the “right of sovereigns” and there was the natural reaction of rebellion against tyranny. In many

With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote:

- a. higher standards of living, full employment, and conditions of economic and social progress and development;
- b. solutions of international economic, social, health, and related problems; and international cultural and educational cooperation; and
- c. universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.

Article 56

All members pledge themselves to take joint and separate action in co-operation with the Organization for the achievement of the purposes set forth in article 55.

²¹ See preamble paragraph 3 of the Covenant on Economic, Social and Cultural Rights.

instances military interventions were consequent upon the militarization of the democratic space by civilian governments. As noted above, elections were rigged and often turned violent while the rule of law was trampled upon. This led to the usurpation of government by those who are masters and have training in the deployment and management of violence. And the military culture is not one of dialogue but of orders that are meant to be obeyed or in the alternative, a rebellion against the system. Thus military governments further entrenched the violence and conflict culture in African societies.

There is also the proliferation of small arms and light weapons and the capacity to make war and engender conflict. Small arms are the weapons often used in conflicts within states and civilians account for about 80% of the casualties.²²

Issues of ethnicity and nationality also fuelled insecurity in states where there had been a fierce contest for power resulting in a winner takes all approach, exclusion and the lack of participation in governance by any group that fails to prevail in elections. This scenario emphasised resource deprivation and lack of opportunities to the group and led in many instances to violent conflicts.

Conflicts in resource rich countries generate a dynamic of their own which gives the conflicts a new life and refuels it into a vicious cycle of violence. Liberia, Sierra Leone, Democratic Republic of Congo exemplifies these conflicts. As a jurisprudential framework, a government's conception of law also contributes to the creation of insecurity. In administrations where Austinian positivism reigns supreme, law will be conceived as the raw command of a sovereign backed by sanctions irrespective of the values or utility of the law. That accounts for laws that oust the jurisdiction of courts, deprive individuals and groups of their property rights and generally infringe on human rights. But if the social engineering role of the law or its role as a reflector of the spirit of the nation dominates a government's train of thought, the use of law and policies for enhancing security, distributive justice, conflict mediation, peace building etc will be enhanced. Law will be enacted as a social framework that aims at satisfying social wants - the claims, demands and expectations involved in the existence of a civilized society, by giving effect to as much as possible, with the least sacrifice, by an ordering of human conduct through politically organized society. Thus a Law without a proper social engineering role may be deemed worthless. Flowing from the above is the issue of judicial activism; in jurisdictions where judges think of themselves as automations or robots who dispense justice in strict and literal accordance with the law, without infusing any sense of justice to iron out creases, the frustration inherent in political, social and economic power tussles will be enhanced and conflict will likely hold sway in the long run.

AFRICA'S RESPONSE

Under this section, the paper will examine the response to peace and security issues including governance and peer review.

²² See *Safety for People in a Changing World*, a Canadian Ministry of Foreign Affairs publication, 1999 cited with approval by Berket Selassie in *Peace, Conflict and Development in Sustainable Development, Governance and Globalisation, African Perspective*, Heinrich Boll Foundation, 2002

AFRICAN UNION

The Organisation of African Unity, the predecessor of the African Union was more concerned with the question of decolonisation and unity and it had little focus on other areas.

At the level of the African Union, its Constitutive Act in article 3 states its objectives as follows:

- a. Achieve greater unity and solidarity between the African countries and the peoples of Africa;
- b. Defend the sovereignty, territorial integrity and independence of its Member States;
- c. Accelerate the political and socio-economic integration of the continent;
- d. Promote and defend African common positions on issues of interest to the continent and its peoples;
- e. Encourage international cooperation, taking due account of the Charter of the United Nations and the Universal Declaration of Human Rights;
- f. Promote peace, security, and stability on the continent;
- g. Promote democratic principles and institutions, popular participation and good governance;
- h. Promote and protect human and peoples' rights in accordance with the African Charter on Human and Peoples' Rights and other relevant human rights instruments;
- i. Establish the necessary conditions which enable the continent to play its rightful role in the global economy and in international negotiations;
- j. Promote sustainable development at the economic, social and cultural levels as well as the integration of African economies;
- k. Promote cooperation in all fields of human activity to raise the living standards of African peoples;
- l. Coordinate and harmonize policies between existing and future Regional Economic Communities for the gradual attainment of the objectives of the Union;
- m. Advance the development of the continent by promoting research in all fields, in particular in science and technology;
- n. Work with relevant international partners in the eradication of preventable diseases and the promotion of good health on the continent.

Article 4 of the Constitutive Act states its principles to include:

- Peaceful resolution of conflicts among Member States of the Union through such appropriate means as may be decided by the Assembly;
- Prohibition of the use of force or threat to use force among Member States of the Union;
- Non interference by any Member State in the internal affairs of another;
- The right of the Union to intervene in a Member State pursuant to a decision of the Assembly in respect of grave circumstances, namely war crimes, genocide and crimes against humanity;
- Peaceful co-existence of member states and their right to live in peace and security;
- The right of Member States to request intervention from the Union in order to restore peace and security;

- Promotion of self reliance within the framework of the Union;
- Promotion of gender equality;
- Respect for democratic principles, human rights, the rule of law and good governance;
- Promotion of social justice to ensure balanced economic development;
- Respect for the sanctity of human life, condemnation and rejection of impunity and political assassination, acts of terrorism and subversive activities;
- Condemnation and rejection of unconstitutional changes of government.

In article 30, the Constitutive Act states that governments that come to power through unconstitutional means shall not be allowed to participate in the activities of the Union. While the combined effect of articles 4 and 30²³ of the Constitutive Act is to outlaw and discourage unconstitutional changes of government, the Constitutive Act is however silent on sit tight leaders who are very much around in the Continent. They use all manners of subterfuge vis; election rigging and using a timid judiciary to legalise or legitimise their stay, getting pliant parliaments to abrogate constitutional limits on tenure, etc. Since they have foreclosed a constitutional means of change of government, the only way of easing those leaders out of power is by an “unconstitutional or illegal means” if it is judged with the *status quo* law or constitution.

The interesting development in the AU is that the non-interference shield for bad governments has been removed with the right of the Union to intervene in specific cases. The objectives of the AU in article 3 also speaks of peace, security and stability while promoting and protecting human and peoples’ rights in accordance with the African Charter on Human and Peoples’ Rights and other relevant human rights instruments.

THE PEACE AND SECURITY COUNCIL

At the Lusaka Summit of the Heads of State and Government, a Peace and Security Council was created, and it was finally adopted in the Durban South Africa AU 2002 meeting.²⁴ By the *Protocol Relating to the Establishment of the Peace and Security Council of the African Union*, article 2 states as follows:

There is hereby established, pursuant to Article 5 (2) of the Constitutive Act, a Peace and Security Council within the Union, as a standing decision-making organ for the prevention, management and resolution of conflicts. The Peace and Security Council shall be a collective security and early warning arrangement to facilitate timely and efficient response to conflict and crisis situations in Africa.

The Peace and Security Council shall be supported by the Commission²⁵, a Panel of the Wise²⁶, a Continental Early Warning System²⁷, an African Standby Force²⁸ and a Special Fund²⁹.

²³ This position reaffirmed the principles of the *Framework for an OAU Response to Unconstitutional Changes of Government* (adopted at the 2002 OAU Summit in Lome, Togo, and based on the earlier decision of the 1999 Algiers OAU Summit.

²⁴ Decision AHG/Dec 160 (xxxvii) in accordance with article 5 (2) of the AU Constitutive Charter. The Protocol establishing the Peace and Security Council is in the process of ratification.

²⁵ The Commission here refers to the Commission of the African Union.

²⁶ The role of the Panel of the Wise is advisory to the Peace and Security Council on all issues pertaining to the promotion and maintenance of peace, security and stability- article 11 (3) of the Protocol.

In accordance with article 6, the Peace and Security Council has the following functions:

- Promotion of peace, security and stability in Africa;
- Early warning and preventive diplomacy;
- Peace-making, including the use of good offices, mediation, conciliation and enquiry;
- Peace support operations and intervention, pursuant to article 4 (h) and (j) of the Constitutive Act;
- Peace building and post-conflict reconstruction;
- Humanitarian action and disaster management;
- Any other function as may be decided by the Assembly.

The Protocol will however enter into force upon the deposit of the instruments of ratification by simple majority of the member states of the AU.

Earlier attempts at elaborating a framework for peace and conflict resolution include the 1993 Cairo Declaration Establishing the Mechanism for Conflict Prevention, Management and Resolution³⁰; the Conference on Security, Stability, Development and Cooperation (CSSDA) Solemn Declaration (2000)³¹.

THE DECLARATION ON DEMOCRACY, POLITICAL, ECONOMIC AND CORPORATE GOVERNANCE

In Durban South Africa, the AU in furtherance of the NePAD adopted the Declaration on Democracy, Political, Economic and Corporate Governance³². The Declaration dwells on democracy and good political governance, economic and corporate governance and the African Peer Review Mechanism. The Declaration in its Democracy and Governance aspect seeks to strengthen democracy, human rights and the rule of law, accountability and equal opportunities.

Under the Economic and Corporate Governance Portfolio, it seeks to encourage African countries to adopt the following codes and best practices:

- Code of Good Practices on Transparency in Monetary and Financial Policies
- Code of Good Practices on Fiscal transparency
- Best practices for Budget Transparency
- Guidelines for Public Debt Management
- Principles of Corporate Governance
- International Accounting Standards

²⁷ The Early Warning System shall develop an early warning module based on clearly defined and accepted political, economic, social, military and humanitarian indicators, which shall be used to analyse developments within the continent and to recommend the best course of action- article 12 (4) of the Protocol.

²⁸ Member States to establish standby contingents for participation in peace support missions decided by the Peace and Security Council- article 13 (2) of the Protocol.

²⁹ The Special Fund known as the Peace Fund is established to provide the necessary financial support for peace support missions and other operational activities related to peace and security- article 21 of the Protocol.

³⁰ 29th ordinary session of the Assembly of Heads of State and Government held in Cairo Egypt.

³¹ AHG/Decl.4 (xxxvi) adopted by the 36th ordinary session of the Assembly of Heads of States and Governments of the OAU held in Lome Togo from 10-12 July 2000.

³² AHG/235 (xxxviii)

- International Standards for Auditing; and the
- Core principles for Effective Banking Supervision

For socio-economic development, it seeks to tackle poverty through:

- Democracy, good governance, peace and security
- The development of human and physical resources
- Gender equality
- Openness to international trade and investment
- Allocation of appropriate funds to the social sector and;
- The new partnership between government and the private sector, and with civil society.

COMPREHENSIVE AFRICA AGRICULTURE DEVELOPMENT PROGRAM (CAADP)

In the field of agriculture and food security, NePAD in collaboration with the Food and Agriculture Organisation of the United Nations has developed a “Comprehensive Africa Agriculture Development Programme” (CAADP). As a development, CAADP has the following positive sides:

- The recognition of the severity of the food and agricultural crisis in Africa; that 28% of Africa’s population are chronically hungry; Africa’s rising food imports and the decline in Africa’ share and income from agricultural trade; an acknowledgement of the existence of a severe problem, which naturally needs remedial action.
- The three pillars of CAADP to wit; extending the area under sustainable land management and reliable water control systems, improving rural infrastructure and market access, increasing food supply and reducing hunger.
- The recognition that agriculture led development is required for sustainable development in Africa.
- The recognition of the need for people’s participation in conception, implementation and evaluation of programs.
- The need to generate resources internally for the development of the Continent’s agriculture.
- The need to address low farm productivity through integrated and comprehensive approaches including soil protection, increasing its moisture retaining capacity, etc.

However, this program is bedevilled by the recommendation of the same old medicine (neo-liberal/globalising industrial agriculture which intensifies the structural causes of hunger and malnutrition) that has failed to take Africa out of its peripheral position in the world economy. The emphasis of CAADP on the market, competitive edge and linking African agriculture to international capital may most likely fail as past experience in other sectors demonstrate. As

expected, CAADP expects the Western World to provide the larger part of the resources needed for its implementation³³.

CAADP should be anchored on the fundamental paradigm of food sovereignty. This paper adopts the position of NGOs and CSO's at Rome +5, which requires the primacy of people's and community rights to food and food production over trade concerns; It further requires:

- Placing priority on food production for domestic and local markets, based on peasant and family farmer and agro-ecologically diversified production systems
- Ensuring fair prices for farmers which means the power to protect internal markets from low-priced, dumped imports
- Access to land, water, forests, fishing areas and other productive resources through genuine redistribution, not by market forces and World Bank sponsored “ market assisted land reform”
- Recognition and promotion of women's role in food production and equitable access and control over productive resources
- Community control over productive resources, as opposed to corporate ownership of land, water, genetic and other resources
- Protecting seeds, the basis of food and life itself, for the free exchange and use of farmers, which means no patents on life and a moratorium on genetically modified crops, which leads to genetic pollution of essential genetic diversity of plants and animals
- Public investment in support of the productive activities of families, and communities geared towards empowerment, local control and production of food and for people and for local markets.

THE PEER REVIEW MECHANISM (APRM)

The Democracy and Political Governance and the Economic and Corporate Governance Initiatives, which, form part of the conditions for sustainable development are merged in the construction of the African Peer Review Mechanism (APRM). The APRM is described as voluntary with a mandate to ensure that participating state's policies conform to the agreed political, economic and corporate governance values, codes and standards contained in the Declaration on Democracy, Political, Economic and Corporate Governance. It has also been stated that the primary purpose of the APRM is to foster the adoption of policies, standards and practices that lead to political stability, high economic growth, sustainable development and accelerated sub-regional and continental economic integration through sharing of experiences and reinforcement of successful and best practices, including identification of deficiencies and assessing the needs for capacity building. The reviews are to be technically competent, credible and free of political manipulation.

The idea of peer review seeks to put pressure on member states to adhere to sound principles of political and economic governance. Countries wishing to participate in the APRM are to notify the chairman of the Heads of State Implementation Committee with an undertaking to submit to

³³ . The large volume of the expected foreign financing is a contradiction in terms since NEPAD sets out to guarantee that Africans will no longer be wards of benevolent guardians, but rather, the architects of their own destiny.

periodic peer reviews, as well as to facilitate such reviews, and be guided by agreed parameters for good political governance and good economic and corporate governance³⁴.

The leadership and management structure comprises a panel of 5-7 eminent persons who have distinguished themselves in careers that are considered relevant to the work of the APRM; and the relevant areas are political governance, macroeconomic management, public financial management and corporate governance³⁵. They must be persons of high moral standing and with a demonstrable commitment to Pan Africanism. Candidates for appointment are to be nominated by participating countries, short listed by a committee of ministers and appointed by the Heads of State and Government of participating countries³⁶.

OWNERSHIP AND ACCOUNTABILITY OF APRM

Questions have arisen in the past about the ownership of NePAD. While agreeing that NePAD emanated from African leaders, it appears that minimal consultation, dialogue and engagement preceded the initiation of the program. It came from the executive heads of government without input from African legislatures. The APRM is simply a sub mechanism of NePAD and the question of its ownership will definitely fall back on the question of the ownership of the entire NePAD program. On the first level of superficial analysis, African leaders own the APRM. This first level answer however distorts the quest for social and economic justice based on conditionality from below. This was intended to be a form of self imposed conditionality by African countries through processes of popular civil society participation as compared to conditions being unilaterally imposed by creditors and donors³⁷.

Probing deeper, the APRM appears to replicate donor conditionalities that are already in place. Under Structural Adjustment Programs (SAPs), the Bretton Woods institutions started with emphasis on price levels, fiscal and macro-economic policies and when the medicine did not yield the desired result, good governance was added to the cocktail of pills. Thus, the APRM's merger of economic and political considerations tows the earlier approach of SAP. But did it add anything new, except the self-review and criticism aspect? The answer appears to be no.

The second question is, despite the stated intentions of APRM, what is the real purpose of the APRM? Article 75 of the NePAD Progress Report and Initial Action Plan of June 2002 seeks to provide a clue:

“...First, there is a political risk that some countries may pursue or delay the implementation of NEPAD endorsed programmes and action plans on key issues, especially those that will unlock any barriers to the flow of investment and financial assistance into the programmes, from both within and outside Africa...NEPAD will mitigate this risk through intensive engagement and actions to be determined within the framework of Peer Review”.

Article 78 of the Progress Report while canvassing for external assistance stated that a new partnership for development must rest on the principle of mutual accountability, requiring the

³⁴ . Article 5 of the APRM; as at date, about ten countries have indicated their intent to participate in the APRM..

³⁵ .Article 7 APRM; the panel of Eminent Persons is already constituted.

³⁶ . Article 6 and 7 APRM.

³⁷ . “*Un-blurring the Vision, An assessment of NEPAD by South African Churches*” under the subheading “Conditionality from Below” at page 9.

clear elaboration of obligations and responsibilities on each side, and binding commitments monitored via the APRM.

Article 86 of the Progress Report also links debt relief to performance on good governance. The G.8 reaffirmed this position at the Kananaskis meeting in Canada where audience was granted to the leadership of NePAD.

NePAD recommends the current globalisation model on trade, investments, financial flows etc, as the cure for Africa's economic and political maladies and adherence to this model is to be policed by the APRM. NePAD through the APRM, as such, ties good governance, accountability, democracy and human rights to the market and current globalisation process. This is an awkward logical analysis. Good governance, accountability, etc are virtues worthy of any civilized people and a means of accelerating participation and development. But they are not necessarily tied to the market, free trade, and privatization of resources and services or essentially following the current globalisation model. A partnership for development neither requires nor precludes any particular form of government or economic system being used as the vehicle for the attainment of its goals provided that human rights and democracy are entrenched. NePAD therefore should have been neutral and its principles should not be predicated exclusively upon the need for or desirability of any particular economic or globalisation model.

The question of the APRM's accountability dimension comes up; to whom is it accountable-African peoples or the power of international capital? An analysis or understanding of the power dynamics behind the APRM is imperative. Who owns the message; is it the messenger or the author of the message. It is submitted that it is the author of the message and this message and the author are not necessarily African. An example of the power relations in a backward African society where women suffer discrimination or are subjected to torture on widowhood rites illustrates this point. Other women carry out most of the subjugating practices. But it is the men who set the ground rules and obnoxious customs.

EFFICACY OF THE APRM

The way NePAD and its APRM are being elaborated as first time events tells a lot about our historical documentation. African states have been part of the rich heritage of the International Bill of Rights. The Universal Declaration on Human Rights has found expression in the provisions of many African constitutions while many African states are signatories to either the International Covenant on Civil and Political Rights or the International Covenant on Economic, Social and Cultural Rights. There have been many concluding observations from the treaty monitoring committees that found many African states in violation of their obligations. Other international human rights treaty mechanisms monitoring instruments like CEDAW, Conventions against Torture, Inhuman and Degrading Treatment etc have also made their contribution to the development of good governance in Africa. Further, the African Charter on Human and Peoples' Rights has a mechanism for monitoring compliance by states that have ratified the Charter. There is also the African Charter on Popular Participation, the proposed African Court etc; what results have these standards produced? Do we need a new mechanism or do we strengthen existing mechanisms?

It appears that the realistic expectation is that when trade and human rights concerns are lumped together, democratic and human rights issues will be made subject to purely trade issues and as

such trade considerations will trump human rights following the lead set by the relationship between the World Trade Organisation and United Nations human rights mechanisms.

In view of the fact that the legitimacy for the APRM lies elsewhere from Africa, it may be difficult to estimate the efficacy or extent to which it may meet popular expectations. But strictly speaking, it is the cautious approach, not to invest too much hope in the process that is recommended. But one would not be surprised if it fails.

OPPORTUNITIES FOR CSO INTERVENTION

The APRM offers a closed space for CSOs intervention in its processes. CSOs from the process so far cannot initiate reviews as only four types of reviews are envisaged;

- a. The first country review being the base review carried out within eighteen months of a country becoming a member of the APRM process
- b. The periodic review that takes place every two to four years
- c. A member country can, for its own reasons, ask for a review that is not part of the periodically mandated reviews; and
- d. Early signs of impending political or economic crisis in a member country would also be sufficient cause for instituting a review. Participating Heads of State and Government can call for such a review in a spirit of helpfulness to the Government concerned³⁸.

There are four stages in the peer review process. It appears that it is only in stage two, during a country visit when consultations are to be carried out with a broad range of actors that CSOs can come into the process.

During stage one, a study is carried out on the political, economic and corporate governance and development environment in the country based principally on up-to-date background documentation prepared by the APRM secretariat and materials provided by national, sub-regional, regional and international institutions. It is arguable whether CSOs cannot intervene at this stage considering the wording of this section³⁹. It is submitted here that the interpretation of “national institutions” should be wide enough to accommodate CSOs. Stage three is the preparation of the Team’s report while stage four involves submitting the report and action to be taken by the Heads of State and Government.

The recommendation here is that a position similar to that of the African Charter on Human and Peoples’ Rights which, empowers CSOs to activate the system after exhausting domestic remedies to ensure compliance, should be put in place⁴⁰. And if another democracy and good governance monitoring mechanism must be put in place, it needs to be separated from trade, finance and globalisation issues or a clear statement made on the supremacy of human and peoples’ rights over trade and macro economic frameworks.

A FEW PRACTICAL ISSUES IN PEACE AND SECURITY

A number of sub-regional initiatives have been engaged in conflict resolution like the ECOWAS and its ECOMOG during the early 1990s crisis in Liberia. Recently, negotiations and dialogue

³⁸ . See “*Periodicity and Types of Peer Review*”- articles 13 and 14 of the APRM.

³⁹ . Section 18 of the African Peer Review Mechanism.

⁴⁰ See articles 55 and 56 of the African Charter on Human and Peoples’ Rights.

resolved the overthrow of a democratically elected government in the small island state of Sao Tome and Principe.

The current coup in Guinea Bissau is intriguing. While the international community and the AU are calling for the restoration of the elected government, it appears from media reports that the country's citizens are saying "good riddance to bad rubbish" because of the poor performance of the leadership in all facets of life. Even the AU President Joaquim Chissano stated "the coup didn't catch me by surprise because the political situation was deteriorating" Civil servants were unpaid for nine months while public schools have not been in session for nine months and yet a government was in place. Parliament had been dissolved for over a year, elections had been postponed five times and there was no hope that it would hold because of the President's track records of not keeping his words.

The possible role for Nigeria and the scenarios that will be created within the Nigerian polity will be worth deeper probing. It is interesting that President Obasanjo is the current chair of the Heads of State Implementation Committee of NePAD to whom intentions to participate in the APRM are to be communicated. Nigeria's major political problem has always been its inability to successfully conduct elections where the incumbent seeks re-election. Under the APRM's fourth type of review, early signs of impending political or economic crisis can trigger a review. Nigeria is currently manifesting the early signs of an impending political crisis. As we speak today, the Nigerian constitution guarantees democratic administration of local governments through elected representatives. Since the expiry of the term of office in May 2002, of elected local governments, caretaker committees have run them contrary to the constitution. The presidential and other elections concluded in April were marred by violence, rigging and manipulations in favour of the ruling party. The voter's register needed for the elections were hardly displayed and no one was sure his name was on the list. The President and the leadership of the National Assembly had earlier illegally sought to insert clauses into the Electoral Act 2001; those clauses were not debated and approved on the floor of the legislature.

Both the European Union and local observers turned in the verdict that the elections were fundamentally flawed. However the AU observer team gave the elections a clean bill of health. Generally, if NePAD and its APRM are to succeed, it should not be working in favour of the power dynamics of the big regional powers. It should be ready and willing to call to account any country that subscribes to participate in it.

The situation after the September 11 bombing of the Twin Towers also calls for concern because there is the danger of reducing the concept of security to the "fight against terror". Security support for Africa being seen in the light of assisting to fight terrorists and terrorism will miss the point. The larger issue of peace building and removing the economic, political and social incubators of terrorism will even be missed because of the belief in military might and its opportunities and solutions. The sheer use and deployment of high technology bombs and equipment may win a war but cannot secure peace and security as the evidence of Iraq has demonstrated. Conflicts dotting all over Africa, from the Great Lakes region to the Sierra Leone, Liberia, Guinea, Sudan etc appear in the past to have attracted minimal international interest except for the pictures of starving children, which goes to confirm the position of Afro pessimists that "nothing good can come out of Africa". These wars and conflicts can be resolved with the right interventions and post conflict mediations.

CONCLUSIONS AND RECOMMENDATIONS

1. The new mechanism set up under the African Union and NEPAD, although with some deficiencies, appear fine on paper. Africa in the past has not been troubled by paucity of ideas, but their implementation has always been the problem. The political will to fund and operationalise such mechanisms as the Continental Early Warning System and the African Standby Force needs to be demonstrated. Most African mechanisms are poorly funded due to the non-remittance of contributions by states. It appears there is a surfeit of mechanisms and the best thing to do is to get down to implementation. A moratorium on the development of new mechanisms is suggested.
2. Already existing systems and mechanisms like the African Commission on Human and Peoples' Rights and the proposed Court on Human Rights should be strengthened and made to serve their purpose.
3. Broadening the understanding and conception of security to include human security is central to the prevention of conflicts and wars and the sustenance and consolidation of peace and security. A good number of wars either had economic and social underpinnings or later acquired it in the course of their prosecution.
4. Deepening and enhancing democracy and popular participation is central to peace and security in Africa. This should not only be limited to the power to vote at elections. It should include the right and power to participate in economic and social decision-making, which is central to protecting livelihoods. Laws and policies should be seen as a social framework to enhance the common good rather than the outdated notions that law should serve the interest of a few or even a majority to the exclusion of the minority.
5. The promoters of NePAD should listen to the voice of civil society and people of Africa in terms of fine-tuning its development and security agenda. It should not be overtly guided by the neo-liberal agenda. There are alternative approaches to development. The elaborate pro-people prescriptions of the Lagos Plan of Action did not see the light of the day and were not supported by the international community. Yet what appears like the continuation of structural adjustment is being hailed as the tonic for development.
6. Tying debt relief, cancellation or forgiveness to the APRM governance conditionalities appears not good enough. The campaign for debt relief is anchored on verifiable historical facts; that at the point of contact between Europe and Africa, the development divide wasn't as wide as it is today. Second, that slave trade which is a result of the same commodification process which finds expression today in the supremacy of the market, privatisation and globalisation led to incredible loss of capacity for development in Africa. This was further accentuated by colonialism which, further disarticulated Africa's development potentials, the flag independence, capital flight and the power structures of international capital which has shut Africa out of the context of real and sustainable development. The level of these debts make them unsustainable considering the massive poverty in Africa-repayment can only be possible if more children, women and vulnerable members of society are allowed to die. All these are moral and legal issues that should set the tone for debt relief while promoting good governance.
7. Further, most of the stolen funds from Africa are round tripped into the bank vaults or economies of the powers that demand good governance and accountability. With the efficiency of Western governments and their security agencies, they are in a position to make public

disclosures of the monies stashed away in their countries and help in their recovery and repatriation to Africa. In law, both the thief and the receiver of stolen property are guilty and anyone who conspires with the thief or the receiver is also guilty of an offence. So the pressure should not only be on Africa's end. Nigeria is estimated to have over three hundred percent of its 31bUSD debt in foreign banks as monies stolen by previous government officials in collaboration with foreign financial institutions. Recovery of this money will take care of Nigeria's debts and still leave her with resources for development.

What is actually needed is a real partnership involving coordination, standards and codes of conduct on both sides of the divide and not to blame the poor for their poverty; and to demand an arm and a leg before assisting.

8. The APRM will be very welcome if it is anchored on a NePAD built on new paradigm of development that takes stock of the reasons for the failure of previous development initiatives in Africa and seeks to correct them. Essentially, it has to recognize that Africa's greatest resource is her population and as such base any development initiative on popular participation, popular ownership, and accountability to the locals while respecting universal principles and ensuring sustainability of the intervention. Peer reviewing for the purpose of sustaining a discredited and unsustainable development model will not succeed; it will rather bring more tears and sorrow for Africa.

9. There should be a clear role for CSOs in the reconstructed APRM or it may not work since African governments are virtually the same, all with skeletons in their cupboards and will as such find it difficult to "prosecute" their colleagues before the APRM. There will virtually be a conspiracy of silence, "a rub my back, I rub yours" arrangement.

10. By article 30 of the Constitutive Act of the African Union, governments, which shall come to power by unconstitutional means, shall not be allowed to participate in the activities of the Union. Note the emphasis is on the word "shall" and "constitutional". It is apparent that despite the good intentions of the provision, it still does not respond to leaders who have virtually stayed in leadership for decades. Rigged elections dis-empower the voter and apparently may appear formally constitutional but definitely undemocratic. The contradiction of allowing existing dictators to continue through manipulating constitutionality while disallowing new unconstitutional governments needs to be resolved. The APRM should devise clear standards that respond to this contradiction.

11. The kind of review mechanism necessary in Africa is one that deepens the accountability of leadership to the citizenry and despite the globalisation agenda, a mechanism that will facilitate for instance a Nigerian economy and political system which respects international obligations while responding to its primary constituency rather than overtly designing a system that only responds to foreign and external stimuli.

12. The APRM needs to be encapsulated in a treaty or protocol mechanism, which has the binding force of law on participating states. There is no guarantee that states that find it difficult to respect treaty obligations will respect what may appear to be moral adjurations.