chapter 1

Overview of the African Union and continental decision-making structures and processes

1.1 The Emergence of a New Pan-Africanism

A number of commentators have highlighted the emergence in recent years of a 'new Pan-Africanism'. According to this view, the new Pan-Africanism remains committed to the long aspired-to African unity and solidarity, while taking this aspiration to an unprecedented new level – manifested by the recognition that development, peace and security, and democracy are intertwined and interdependent.

This recognition provided the impetus for the demise of the Organisation of African Unity (OAU) and the birth of its successor continental organisation, the African Union (AU), launched in Durban, South Africa in July 2002. Critically, the sacred cow of sovereignty enshrined in the OAU's credo of non-interference and non-aggression has been replaced by a new doctrine mandating the right to intervene to restore peace and security in specific circumstances – genocide, gross violations of human rights, national instability with cross-border ramifications, and unconstitutional changes of government. The last of these is symbolic of a new willingness to usher in higher democratic standards of governance.

For many, the AU provides an unprecedented opportunity for Africa to overcome the constraints of its many borders and to have a stronger voice globally. "The AU is part of the African response to globalisation", says Tajudeen Abdul-Raheem, a leading observer of continental policy and politics. "Most of our states are becoming irrelevant globally, but as a group we potentially have a bigger voice politically, economically and diplomatically". In committing to "build an integrated Africa, a prosperous and peaceful Africa, driven by its own citizens and representing a dynamic force in the international arena"⁴, African leaders for the first time acknowledged and articulated the importance of citizen participation in building Africa's Union.

Civil society activists argue this commitment to a "peopleled" Union represents a new political opportunity to engage at continental level towards a golden age of human rights, democratic governance and socio-economic development for Africa's peoples. To capitalise on this opportunity to influence policy, they argue, civil society must engage with the AU itself. "The AU norms provide legitimacy, especially in those countries that are not very open," argues think tank head Funmi Olonisakin. "The moment the AU puts a stamp of approval on anything, it opens doors in country". Abdul-Raheem agrees: "If you look at the structure of the AU, a certain level of continental coordination is intended. It is basically built like a continental government. Regionalism is a reality in Africa and therefore anybody who wants to engage with Africa must engage at that level of policy".

Garth Le Pere, Executive Director of the Centre for Global Dialogue, is equally optimistic about the new Pan-Africanism. "The broad philosophical shift from the OAU to the AU was quite a radical one in the sense that it changed the broad existential motivation for having a continental organisation, ushering in a stronger commitment to development and dealing with a range of important new normative underpinnings as these relate to peace and security, good governance and so on, all of which are enshrined in the Constitutive Act".

1.2 Key African Union Organs

Beyond the philosophical shift from unequivocal to conditional sovereignty, the AU mandate is significantly more expansive than that of its predecessor. As such, its processes and structures differ from the OAU in a number of important ways. Whereas decision-making in the OAU emanated from the Assembly of Heads of State and Government alone, the AU decision-making process is more complex, involving a myriad of institutions designed to ensure greater pluralism in the making of continental

policy. Article 5.1 of the Constitutive Act of the Union establishes several organs (at least 18, according to one source⁵), while a number of institutions are carried over from the OAU. A large number of continental norms, such as the African Charter on the Rights and Welfare of the Child, adopted by the OAU in July 1990, have automatically been absorbed by the AU.

The highest level of AU authority emanates from the Assembly of the Union, bringing together Heads of State and Government of all the AU's 53 Member States twice a year in ordinary session, as opposed to once under the OAU. The Assembly can convene more that twice a year in extraordinary session, if an urgent issue necessitates it. Another important structure is the Executive Council, which is effectively the old OAU Council of Ministers under a different name. Ministers of Foreign Affairs must co-ordinate, consider and approve all policy proposals before they go up to the Heads of State in the Assembly of the Union. A third level is the Permanent Representatives Committee (PRC), made up of all the African Ambassadors accredited to the AU. The PRC is a crucial forum for influencing AU policy, as the Ambassadors are key players in a sophisticated game of brokering compromise between national agendas and continental policy. These three key organs meet in sequence in the course of the twice-yearly Summits⁶. The first to meet is the PRC, which prepares the agenda for the Executive Council. The Executive Council in turn recommends issues and points of action to the Assembly of the Union. Member states also engage in the different AU policy areas at ministerial or senior official level in the Specialised Technical Committees established under the Constitutive Act. These committees

meet on an ongoing basis to help determine issues that will end up on the agenda of Summits.

A number of other institutions and structures are worth highlighting.

For those who are critical of the fact that the key policy makers under the AU model are still Foreign Affairs Ministers and diplomats, the Pan-African Parliament (PAP), established in March 2004 and based in Midrand, South Africa, restores some faith in the commitment to a more distributed model of decision-making. The PAP has one Chamber and is made up of five representatives from the Parliament of each member state. At least one of the five must be a woman, and the ultimate objective, in line with the 50-50 parity rule⁷, is to have equal representation between women and men. Initially designated as an advisory body for the first five years, the PAP will eventually have full legislative status and be comprised of members elected by the populations of their respective countries, in the same way as Members of the European Parliament are elected. In its interim phase, the PAP is experiencing teething problems (to do with financing and logistics) likely to plague all the fledgling AU organs. PAP governance structures include a Bureau made up of a President (currently Honourable Dr. Gertrude Mongella of Tanzania) and four Vice Presidents, ten sectoral committees8, and the Secretariat in Midrand.

The Economic Social and Cultural Council (ECOSOCC) was established by Articles 5 and 22 of the Constitutive Act as the primary space for civil society involvement in the building of an African Union. ECOSOCC provides civil society with an opportunity to interact with all organs of

⁵ Landsberg and McKay 2005.

There have been 7 AU Summits to date. The first was in Durban, July 2002, followed by: Maputo, July 2003; Addis Ababa, July 2004; Abuja, January 2005; Sirte, July 2005; Khartoum, January 2006 and Banjul, July 2006.

The 50/50 gender parity rule, agreed to by AU Heads of State at the organisation's inception, decrees that the gender of employees of AU institutions should be evenly distributed between men and women. To date, in what has been heralded as unique among international bodies, the AU Commission has implemented the rule – 50% of its Commissioners, for example, are women. The substantive ECOSOCC will also be composed according to the gender parity rule.

⁸ For more details visit http://www.pan-african-parliament.org/

the AU, influence policy decisions and chart Africa's future alongside Africa's leaders9. As AU Chairperson Alpha Konaré has stated, "The creation of ECOSOCC is against authoritarian regimes, hostile external efforts and the negative waves of globalization... [ECOSOCC] should be by the side of those who suffer injustice and are deprived of their basic human rights." 10 ECOSOCC has been heralded by some civil society actors as the jewel in the AU's crown. "We now have an organ that allows us to speak directly to the Summit", says Ayokunle Fagbemi of the Centre for Peacebuilding and Socio-Economic Resources Development (CePSERD), Abuja, Nigeria. "The ECOSOCC agenda and the ECOSOCC spirit are not just about going to meetings in Addis Ababa or being privileged to sit with the Heads of State. No, it is about making sure that the people-centred, people-friendly, people-oriented nature of the African Union is brought to bear and there's a complete accountability scheme put in place". ECOSOCC currently exists as an interim body, but will eventually have 150 members. Like the PAP, ECOSOCC is a representative body, with statutes laying down criteria for membership. Unlike the PAP, however, ECOSOCC will remain an advisory body, a fact that has

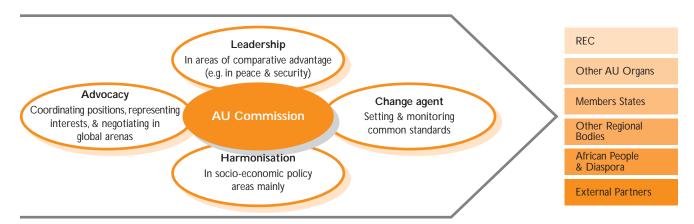
prompted some critics to dismiss it as an organ designed to rubber stamp, rather than critically engage with the policies of Africa's leaders (for more on ECOSOCC, see Chapter 2).

The AU Commission constitutes the bureaucratic and technocratic engine of the Union, and as such is a key focus for any organisation wishing to engage on continental issues. In its Strategic Plan 2004-2007, the Commission ascribes to itself the following four functions (see Figure 1):

- Leadership (in areas of comparative advantage, such as Peace and Security);
- Harmonisation (mainly in socio-economic policy areas);
- Change Agent (setting and monitoring common standards); and
- Advocacy (coordinating positions, representing interests, and negotiating in global arenas).

These constitute a sea of change from the old OAU Secretariat's role. Another difference is that whereas the

Figure 1: Role of the African Union
Adapted from: AU Strategic Plan 2004-2007, Vol. 2



 $^{^9 \}qquad http://www.sarpn.org.za/documents/d0001191/index.php$

¹⁰ Opening Statement of AU Chairperson Alpha Oumar Konaré at the launch of the interim ECOSOCC on 29 March 2005 in Addis Ababa, Ethiopia.

Secretary General of the OAU could not take initiatives without reference to the Assembly of Heads of State, the Chairperson of the AU Commission has a stronger mandate to take initiatives and more room to manoeuvre – as evidenced by the speed with which the AU is responding to African crises, and the exceptional leadership it is exercising on Africa's behalf in multilateral and global fora.

The scope of the AU's Directorates¹¹ reflects the ambition of the Union. Most are headed by Commissioners, who have a high degree of autonomy to direct and implement AU policy in their five-year term. The AU convenes a large number of sectoral conferences at ministerial level, such as the AU Conferences of African Ministers of Health and Ministers of Regional Integration. The Commission's work programme is spelled out in the Strategic Plan 2004-2007, and its implementation is directed by the Chairperson, currently former Malian President Prof. Alpha Oumar Konaré.¹² Konaré is more externally-focused while his Deputy Chairperson, Ambassador Patrick Mazimhaka of Rwanda, addresses internal administrative and reform issues.

A significant majority of the AU Commission's 300 or so staff members are from the old OAU Secretariat, a fact some see as problematic and a sign more reforms are needed. "The reforms have not been consequential enough to keep pace or to advance the frontiers of this new continental focus," says Le Pere. "If anything it has been subject to deep internecine squabbling around the nature of the institutional architecture, the human resources required to make that architecture functional, and so on. So you're sort of grafting new onto old in a manner that is very imperfect".

The 15-member *Peace and Security Council (PSC)* represents the AU's continued and deepening commitment to

preventing, managing and resolving Africa's conflicts. Established in December 2003, its statutes provide for citizens to bring matters to its attention. Three PSC sub-organs are in the process of being established. One is the Panel of the Wise, to be made up of five prominent Africans whose role will be to engage in preventive diplomacy and mediation. A second is the Continental Early Warning System, designed to enhance the PSC's conflict prevention effectiveness through the provision of timely information. A third is the African Standby Force, effectively a standing army for peacekeeping and peace enforcement made up of troops from AU member states organised at sub-regional level. The Peace and Security Department services the PSC and is responsible for addressing a range of conflict-related issues, including small arms, landmines, and child soldiers - in line with the AU's emphasis on human security, as opposed to the old military paradigm of state security. A recently developed Post-Conflict Reconstruction and Development Framework, approved by the 7th AU Summit in Banjul in July 2006, provides policy direction for the AU Commission to work in what is a new programmatic area.

Eleven judges of the new African Court on Human and People's Rights were elected on the fringes of the 6th AU Summit in Khartoum in January 2006. The Court, to be based in Arusha, Tanzania, derives its mandate to rule on disputes from the 1981 African Charter on Human and People's Rights – which also established the Gambia-based African Commission on Human and People's Rights (ACHPR) in 1987 to consider and rule on human rights violations in AU member states, and recommend corrective action against offending state parties. The African Court on Human and People's Rights is intended to bolster the long-standing ACHPR. Since the early 1990s there has been a flurry of civil society engagement around human rights in Africa, made possible by observer status granted

Peace and Security (Commissioner Said Djinnit); Political Affairs (Julia Dolly Joiner); Infrastructure and Energy (Bernard Zoba); Social Affairs (Bience P. Gawanas); Human Resources, Science and Technology (Nagia Mohammed Assayed); Trade and Industry (Elisabeth Tankeu); Rural Economy and Agriculture (Rosebud Kurwijila); Economic Affairs (Maxwell Mkwezalamba).

Due to step down mid 2007 but is eligible for another 5 year term.

to CSOs by the ACHPR. A new Pan-African coalition of CSOs has formed to lobby for an effective African Court, demonstrating the extent to which continental mechanisms are attracting interest. Lobbyists were also looking to influence the merger of the African Court on Human Rights and another new organ of the AU, with the *African Court of Justice*, set up, rather confusingly under the Constitutive Act, to protect human rights.

Three proposed *Financial Institutions* are among the most ambitious AU organs to date. The AU Commission has set up a technical committee to look into how best to implement the provision in Article 19 of the Constitutive Act for an African Central Bank (ACB), African Investment Bank (AIB) and African Monetary Fund (AMF).

Even more ambitious is the low-key effort, to develop the concept of *African Union Government*. The idea – discussed in a high-level conference attended by several African Heads of State, civil society leaders and thinkers from

across Africa in 2004 - is to devolve key functions currently carried out by national governments to a Union government. On the basis of the principle of subsidiarity, a restricted draft of a study commissioned by the AU Commission spells out a possible division of labour in strategic policy areas between the African Union Government and national governments. A three-fold division is envisaged: policy areas that will be exclusively under Union Government authority; those where authority is shared between Union Government and national governments; and residual policy areas where member states will retain their state authority. A number of policy domains to be either exclusively managed by Union Government or shared with national governments are suggested. Union Government is viewed as a halfway house to a United States of Africa. " An AU Government Towards the United States of Africa" is the theme of the 9th AU Summit to be held in Accra, Ghana in July 2007.

AIDS education for students and community members reduces the fear of treatment at local clinics. Zamtan, Zambia.

photo: Jon Warren

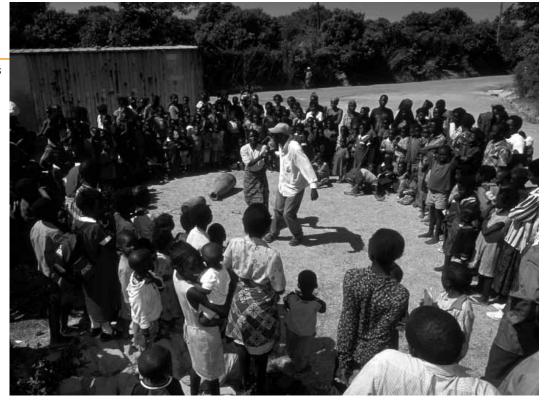
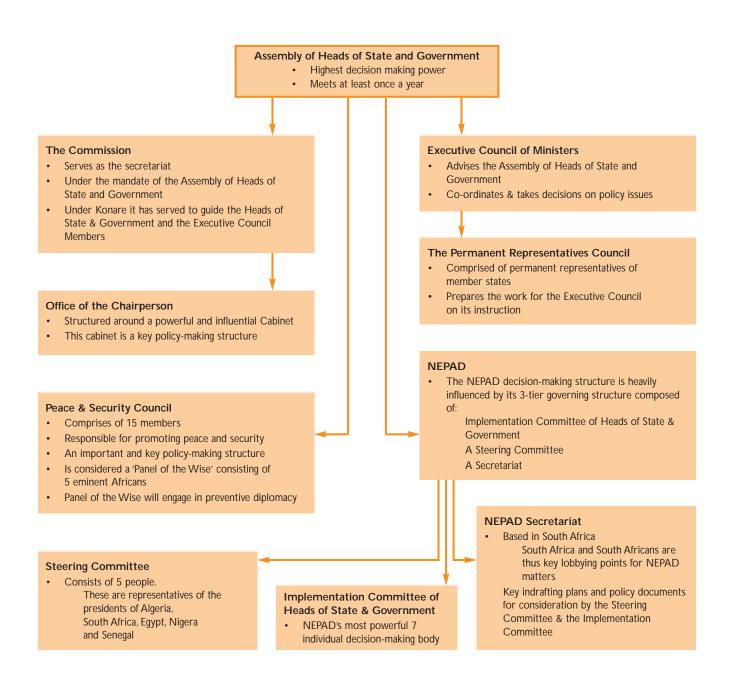


Figure 2: Decision-Making Structures of the African Union

Adapted from: Landsberg and McKay 2005



1.3 The Continental Institutional Architecture

In addition to the multiplicity of institutions created under the Constitutive Act, the AU Commission has stated, as an important goal, the desire to coordinate the activities of all continental and sub-regional organisations in Africa working towards regional integration, and economic and social development.

1.3.1 The New Partnership for Africa's Development (NEPAD)

NEPAD constitutes the most prominent initiative under the AU's umbrella. NEPAD emerged in 2001 as a separate initiative stewarded by a small group of African leadership - Presidents Thabo Mbeki of South Africa, Olusegun Obasanjo of Nigeria, Abdelaziz Bouteflika of Algeria and Abdoulaye Wade of Senegal. Like the AU, NEPAD emphasises the importance of peace and security, democracy and good governance, but goes further, articulating a two way mutual accountability compact binding African leaders and African peoples, and African countries and the international community. NEPAD also spells out an economic vision for Africa's development that assigns a leading role for the private sector as an engine of growth. A fundamental difference is that while the AU's strategy is driven from the inside by African actors, NEPAD places significant emphasis on Africa's external partners, aid, debt relief and trade.

Concern that NEPAD was setting itself up as an alternative to the AU led African leaders to emphasise at the Maputo AU Summit in July 2003 that NEPAD was a programme of the AU, as opposed to a separate initiative. When put together with the AU organs, the combined governing structure makes for an elaborate architecture (see figure 2). NEPAD's secretariat, based in Midrand, South Africa, is accountable to the NEPAD Steering Committee, which in turn reports to the NEPAD Heads of State and Government Implementation Committee (HSGIC). In turn, HSGIC, as decided in Maputo, is a sub-committee of

the Assembly of the African Union. Chaired by President Obasanjo, the HSGIC meets alongside each AU Summit.

There is considerable overlap between the AU and NEPAD's work programme, with most of the areas in which NEPAD is developing action plans¹³ resonating to a greater or lesser extent with the AU's Strategic Plan. And yet the AU Commission and NEPAD Secretariat are located in different African countries and work separately. There is also a widely-held perception among AU Commission staff that the international community is engaging with NEPAD when the key interlocutor should be the AU, resulting in confusion and a lack of coherence. Concerned at the lack of synergy between the two, African leaders decided in Maputo that after three years the NEPAD Secretariat should move to Addis Ababa and be integrated into the AU Commission. At the Banjul Summit in July 2006, a compromise agreement was reached that will allow the NEPAD Secretariat to remain in South Africa for the time being, amid fears that NEPAD will be swallowed up if the Secretariat is absorbed by the AU Commission. However, respondents to interviews conducted as part of this research suggest a merger is imminent.

Furthermore, criticisms by President Wade are leading to calls to "reposition NEPAD". In Khartoum in January 2006 leaders agreed that a joint AU/NEPAD brainstorming should take place in Dakar, Senegal to discuss the way forward. According to Dr. Rene Kouassi, Director of Economic Affairs at the AU Commission, "the idea of the Dakar meeting is to re-examine the way forward for NEPAD because some of us have the impression that NEPAD has strayed from its original path; there is a need to reposition it back to its original trajectory to permit it to play its role". In the meantime, Neville Gabriel of Southern Africa Trust notes "a definite realignment of authority, in the sense that the NEPAD Chief Executive now reports to the AU Chairperson, and the different sectoral leads in NEPAD have to integrate their work much more with the AU..."

Peace, Security, Democracy & Political Governance Initiatives; Economic & Corporate Governance; Bridging the Infrastructure Gap; Human Resource Development Initiative (in particular Education & Health); and Market Access Initiative.

1.3.2 African Peer Review Mechanism (APRM)

Whatever the institutional rivalry, NEPAD is taking a clear lead with regard to the African Peer Review Mechanism (APRM), designed as a learning process to evaluate the effectiveness of economic, corporate, as well as political governance in African countries on a voluntary, nonadversarial basis. So far, Ghana and Rwanda have completed the peer review process, while a number of other countries (including South Africa and Kenya) are undergoing review. NEPAD's secretariat in Midrand includes a Deputy Chief Executive responsible for the APRM. Efforts have been made to ensure that civil society is part of the APRM process, although concerns remain as to the nature and extent of CSO involvement. Countries reviewed so far have involved CSOs in different ways, including as contractors to undertake consultations and write elements of country reports (see Chapter 2).

1.3.3 Regional Economic Communities (RECs) The *Regional Economic Communities* (RECs), envisaged as

the building blocks to regional integration under the 1991 Treaty Establishing the African Economic Community, tended to forge their own path in the OAU, secure in the knowledge they were much closer to the ground and had a more all-encompassing mandate that encapsulated economic and social development. Under the AU, however, strenuous efforts are underway to bring the RECs more fully into the continental fold, and a new AU protocol has been established and negotiated to this end, in the recognition that the RECs have more to show in terms of tangible progress towards integration than the AU itself. "Look at the progress that has been made at the level of [the Economic Community of West African States] ECOWAS", says Abdul-Raheem. "Freedom of movement, trade, ECOWAS Bank, traveller's cheques, and so on. And East Africa has undertaken the most advanced customs reforms and is now talking of political federation by 2013. So at the AU level therefore, anybody who wants to engage with Africa needs to have a sense of what is happening in the RECs".



In the shade of a tree community members listen to advice on AIDS awareness and prevention. photo: Deogratias Haule

Filikunjombe

Table 1: Regional Economic Communities in Africa Recognised by the AU

Source: http://www.africa-union.org

REC	Member Countries
AMU: Union Du Maghreb Arabe / Arab Maghreb Union	5 Members: Algeria, Libya, Morocco, Tunisia, Mauritania
CEN-SAD: Community of Sahelo- Saharan States	23 Members: Benin, Burkina Faso, The Central Africa Republic, Chad, Côte d'Ivoire, Djibouti, Egypt, Eritrea, Gambia, Ghana, Guinea Bissau, Liberia, Libya, Mali, Morocco, Niger, Nigeria, Senegal, Sierra Leone, Somalia, Sudan, Togo, Tunisia
COMESA: Common Market for East and Southern African	20 members: Burundi, the Comoros, the Democratic Republic of the Congo, Djibouti, Eritrea, Egypt, Ethiopia, Kenya, Libya, Malawi, Mauritius, Madagascar, Rwanda, the Seychelles, Swaziland, Somalia, Sudan, Uganda, Zambia, Zimbabwe
EAC: East African Community	5 members: Kenya, Tanzania, Uganda Rwanda and Burundi joined in 2006
ECCAS: Economic Community of Central African States	11 members: Angola, Burundi, Democratic Republic of the Congo, Congo, Cameroon, Central African Republic, Chad, Equatorial Guinea, Gabon, Rwanda, Sao Tome and Principe
ECOWAS: Economic Community of West African States	15 members: Benin, Burkina Faso, Cape Verde, Cote d'Ivoire, the Gambia, Ghana, Guinea Bissau, Guinea, Liberia, Mali, Nigeria, Niger, Senegal, Sierra Leone, Togo
IGAD: Inter-governmental Authority for Development	7 members: Djibouti, Eritrea, Ethiopia, Kenya, Somalia, Sudan, Uganda
SADC: Southern African Development Community	14 members: Angola, Botswana, Democratic Republic of the Congo, Lesotho, Malawi, Mauritius, Madagascar, Mozambique, Namibia, South Africa, Swaziland, Tanzania, Zambia, Zimbabwe

1.3.4 United Nations Economic Commission for Africa (UNECA) and the African Development Bank (AfDB)

Historically, and since its inception in May 1963, the OAU (and subsequently the AU) has always worked closely with the United Nations Economic Commission for Africa (UNECA), which came into existence five years earlier, in 1958. The division of labour has for the most part been the OAU providing political leadership at the continental level, and UNECA contributing via its technical capacity. Important African plans and declarations, including the Lagos Plan of Action (1981) and the Arusha Declaration on Popular Participation (1990) were generated through this partnership between the two Addis Ababa-based continental institutions. Several attempts have been made over the years to formalise the partnership. In the late 1990s, the OAU, UNECA and the African Development Bank (AfDB) held annual meetings at high level as well as technical level, with the chief executives issuing a joint statement on priorities for collaboration.

In 2003, UNECA agreed to hold its annual Conference of African Ministers of Finance, Planning and Development back-to-back with the AfDB's Annual Meetings, under a common theme and with a degree of coordination. Most recently, in February 2006, the leaders of the three

institutions (AU, AfDB and UNECA) agreed to strengthen the collaboration by setting up a Joint Secretariat. There is evidence of enhanced co-operation between these institutions, although there remains duplication (all three convene conferences of African Finance Ministers, for example). Both the AfDB and UNECA also work separately with NEPAD¹⁴.

1.4 Opportunity and Challenge

The establishment of the AU represents both opportunity and challenge. As opportunity, it demonstrates steady progress in Africa's quest for ownership of its own agenda. It constitutes a historic opportunity to revive Pan-Africanism and regionalism in the face of globalisation, and evidence is already emerging of a stronger, more coordinated African voice in the international arena. The articulation of a desire to build a people-centred Union constitutes the clearest statement yet that Africa has put autocratic rule behind it and is ready to proceed along a participatory, democratic and accountable trajectory. And the AU has already demonstrated leadership in its engagement with conflicts, signalling a new era.

However, many challenges remain. A fundamental problem is the proliferation of AU organs and initiatives, with the decision to develop Financial Institutions and the Union Government initiative providing further evidence that the AU is perhaps seeking to run before it can walk. Furthermore, many deem the AU's strategic vision to be excessively ambitious, amidst limited capacity resident in the AU Commission. What is more, the growing external expectation and demand for engagement by the donor countries, NGOs and other potential partners also imposes a sizeable transaction cost, in the process reducing the likelihood of progress.

"There is a human resource problem, there are material resource challenges, and thirdly also, there is too much enthusiasm by outsiders to engage with it, in a situation

In a meeting on 26 July 2006, UNECA and the NEPAD Secretariat agreed on a Framework for collaboration intended to lead to a Memorandum of Understanding.

where it is not ready", says Abdul-Raheem. "Because we have a Peace and Security Council, there's a sub-contracting all over Africa to do business... but the problem is that there's no co-ordination. Everybody wants to have influence within the organisation... It is impossible". Given that the AU project is very much a work in progress, given the myriad AU institutions that are in different stages of their development, and in light of another critical challenge – the disconnect between continental policy-making and national implementation – any institution wishing to

engage with the AU must necessarily be realistic about what is achievable and what is not. Questions must also be asked as to the extent that engagement with the continental project should focus solely on the AU Commission, as opposed to other AU organs and other institutions in the Pan-African policy-making landscape. The implications for civil society of these weaknesses in the AU's institutional architecture are examined in the chapters that follow.

Community members and officials from World Vision discuss ways of helping an elderly couple whose house collapsed during heavy rain. Bukene, Tanzania.

photo:

Geoffrey Denye Kalebbo



In places prone to adverse weather conditions such as drought, there is need to mitigate against the effects. World Vision is at the forefront in many such places. Children from Nana, Horn of Africa.

photo: Rachel Wolff

