

THE AFRICAN UNION: PITFALLS AND PROSPECTS FOR UNITING AFRICA

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As the African Union (AU) moves toward its tenth anniversary in 2012, it is drawing a great deal of attention to its handling of mounting crises on the continent. Across the continent, the AU is faced with crises that test its commitment and capability to fulfill the ambitious agenda it adopted at its formation in July 2002. This agenda includes the promotion of peace, stability, human rights, democracy, good governance and sustainable development. Among the motivating factors for the formation of the Union was to provide Africa with a platform and voice to survive and benefit from the wave of globalization. The AU, as stated in its Constitutive Act, was Africa's response to "the multifaceted challenges that confront our continent and peoples in the light of the social, economic and political changes taking place in the world."¹ It was concocted as a vehicle for accelerating "political and socio-economic integration of the continent" and for establishing "the necessary conditions which enable the continent to play its rightful role in the global economy and in international negotiations."²

While cushioning Africa from the challenges of globalization, the AU was to filter positive values such as good governance, respect for the culture of human rights and peace to galvanize the continent's development and integration. Yet today the AU still confronts a number of daunting challenges, including the stalemate over the Western Sahara question; seemingly intractable conflicts in the Democratic Republic of the Congo (DRC), Darfur and Somalia; a longstanding unresolved border dispute between Ethiopia and Eritrea that could erupt into another full-blown war; agile militia and rebel movements in the Niger delta and in the Uganda-DRC-Sudan-Central African Republic-Chad region; piracy off the Somali coast and the Gulf of Guinea; and a complex political emergency in Zimbabwe that threatens to spread throughout the region. Despite the optimism and enthusiasm that greeted the formation of the AU, a number of African countries have been severely weakened by poor governance, escalating food insecurity,

brutal clampdowns by fragile regimes and the whims of international forces such as high commodity prices.³

Although the six years since its launch are too few to undertake a critical assessment of the organization's record, they nevertheless constitute a formative period that has established a foundation of action and has demonstrated what the future might bring. As a Pan-Africanist organization, the AU should by now be embraced by African people. It should be close to them and responsive to their

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needs—at least in democratic terms. The AU can also be measured by how well it sets up its institutions, manages itself and establishes continental norms of good governance, transparency and accountability.

This article is a critical assessment of the performance of the AU since inception. Starting with a brief background of the AU, this article analyzes the organization's role in promoting peace and new norms, then highlights some of the challenges it faces as it seeks to achieve an ambitious agenda of developing

and integrating one of the most marginalized regions of the world. This article concludes with a set of recommendations that outline the ways in which the AU can effectively achieve its noble and ambitious objectives.

BACKGROUND

The idea of the African Union can be traced to the Pan-Africanist movement and to the clarion call made in 1961 by one of its fervent promoters, Kwame Nkrumah, for Africa to unite in the interest of its own survival.⁴ Although Nkrumah's dream of forming a "United States of Africa" never came to fruition, it nevertheless resulted in the formation of the Organization of African Unity (OAU) in May 1963. The idea of an African union, as envisioned by Nkrumah, was revived in the late 1990s, when the Libyan leader Muammar el-Qaddafi spearheaded the transformation of the OAU into the AU in July 2002.⁵ The AU was established as a functionalist organization, as the preamble of its Constitutive Act acknowledges, noting that "the scourge of conflicts in Africa constitutes a major impediment to the socio-economic development of the continent and of the need to promote peace, security and stability as a prerequisite for the implementation of our development and integration agenda."⁶ According to historian David Mitran, if nations are economically and socially interdependent and their national well-being depends upon the maintenance of peace, then war is less likely.⁷

This functionalist nature of the AU is further reflected in its key objectives (Article 3 of the Constitutive Act), which aim to:

achieve greater unity and solidarity among African countries and the peoples of Africa; defend sovereignty, territorial integrity and independence of member states; accelerate the political and socio-economic integration of the continent; promote and defend African common positions on issues of interest to the continent and its people; promote peace, security and stability on the continent; promote democratic principles and institutions, popular participation and good governance; and promote and protect human and peoples' rights.⁸

When the AU was formed, many critics dismissed it as an organization that had merely changed its acronym by dropping one letter.⁹ Among the reasons cited for this skepticism were the composition of the organization's founders, many whom lacked Pan-Africanist credentials; the lack of involvement of the African people; and the inheritance of the OAU organizational culture, incompetent staff and huge arrears.¹⁰ Furthermore, the new organization was modeled on the European Union (EU), on which it continues to rely perhaps too heavily for ideas on institutional development and finances for survival.¹¹

Although the AU borrowed the OAU's principles of sovereignty and non-interference in the internal affairs of member-states, it also adopted a radical principle of intervention in failed and failing states on request. However, as we shall see later, this "right to intervene" principle has largely been ineffective for a number of reasons, such as lack of political will and trigger mechanisms. Additionally, subscription to the principle of territorial integrity and respect for colonial-era boundaries contradicts the objective of "political and socio-economic integration of the continent." The report of the High Level Panel of the Audit of the African Union (referred to hereafter as the Audit Report) aptly points out that the Constitutive Act "does not specify what steps need to be taken to accelerate the political and economic integration of Africa."¹² The Audit Report further notes that if political integration is to be pursued, then "the ceding of sovereignty (is) inevitable."

The AU was formed at a time of astounding global changes, such as the collapse of the Soviet Union and the end of the Cold War, for which Africa was unprepared. The OAU remarked on these changes in 1990 through the "Declaration on the Political and Socio-Economic Situation in Africa and the Fundamental Changes Taking Place in the World."¹³ This declaration sought to prepare Africa to face the challenges of globalization and to ensure that it was not marginalized or denied the benefits and opportunities of the new world order. By the end of

1990s it was clear that the OAU was incapable of promoting the interests of Africa and securing its place in the emerging world order. This explains why its founding fathers gave the AU the objective of establishing “necessary conditions that should enable the continent to play its rightful role in the global economy and in international negotiations.”¹⁴ The rising tide of globalization brought to Africa notions of democracy that were sweeping the world. These new ideas forced a number of authoritarian and dictatorial rulers on the continent to adopt political pluralism. Accompanying this trend of political pluralism was an effort to redefine Africa’s identity through Thabo Mbeki’s “African Renaissance” idea.¹⁵ This movement to reclaim Africa’s position in the new world laid the foundation upon which the New Partnership for Africa’s Development (NEPAD) and the AU were established.¹⁶

Besides democracy, the AU and NEPAD embraced other norms such as good governance, rule of law and respect for human and peoples’ rights.¹⁷ NEPAD was conceptualized as an arrangement that would implement these norms through a monitoring mechanism, which would provide incentives for increased foreign investment and assistance. Other mechanisms such as the Charter on Democracy and the anti-corruption convention were later adopted to complement the Constitutive Act and NEPAD’s African Peer Review Mechanisms (APRM).

Unfortunately, the evolution of the AU has mainly been based on its functional institutions rather than on the ideal of Pan-Africanism and norms such as democracy, good governance, rule of law and respect for human rights. Halfway into its first decade of existence, the AU’s vision has become blurred and its objectives remain largely unmet. In 2007, the AU embarked on yet another ambitious project of establishing a “union government” even before the organization had been fully set up and run efficiently.¹⁹ This initiative to create a union government is not only being spearheaded primarily at the executive level, but is also presented as a *fait accompli* to be undertaken either immediately or gradually. Opponents of this approach argue that there is no *raison d’être* for a continental government founded on weak and failing states that are badly governed. The proponents of a “union government” have not convinced skeptics that a new continental government would improve the livelihoods of the African people, perform better than the present governments, which have generally failed to deliver basic services to their citizens, and sustain itself without dependence on external support. The establishment of a High Level Panel to audit the AU was based on the argument that a precondition for the formation of such a government must be “the reform and strengthening and efficient functioning of ...(its) various Organs and Institutions.” The resulting Audit Report cautioned that unless these bodies “are dynamic, efficient and effective, they will constitute the Achilles heel of political and economic integration.”²⁰

Like its predecessor, the OAU, the AU is to a large extent a reflection of the nature of its members—poorly governed, weak and heavily dependent on external support to survive. The organization’s performance is severely undermined by the poor quality—or a complete lack—of management systems and resources. Most of its members are poor, misgoverned and confronted with the challenges of nation-building, democratic transition, delivery of basic services and goods and legitimization—all of which draw away attention and resources that could flow to the AU.

PROMOTION OF PEACE, SECURITY AND STABILITY

The AU peace and security agenda can be traced to the 1990 OAU Summit, which issued a declaration that identified the negative effects of conflicts on Africa’s development and provided a framework for promoting peace and resolving African conflicts.²¹ In 1993, the OAU adopted the Cairo Declaration which created a mechanism for conflict prevention, management and resolution. This mechanism was later inherited by the AU and transformed into the Peace and Security Council (PSC).

Since its formation, the AU has been called upon to keep peace in various parts of Africa, with the most notable missions being to Burundi, Darfur and Somalia. The record is a mixed bag of successes and near failures. The AU Mission in Burundi (AMIB) is generally regarded as its most successful peace support operation (PSO).²² The mission was undertaken when the UN was reluctant to send troops to Burundi due to the UN’s Brahimi guidelines, which required deployment of forces only in situations where ceasefires had been signed and all the parties supported the presence of peacekeepers.²³ The AU—while promoting the signing of a ceasefire agreement under South Africa’s guidance—decided in January 2003 to deploy a force of 3,000 to implement the peace agreement with an understanding that the operation would eventually be taken over by the UN. This happened in 2004, when AMIB was “re-hatted” and renamed UNMIB.²⁴

Despite the success in conducting this mission, which included drawing up rules of engagement and meeting challenges of interoperability, command and control, financing, logistics and raising troops, lessons were never learned to make the AU more effective in future PSOs. In fact, the AU’s subsequent interventions, from Darfur to Somalia, have been increasingly ineffective, due to the lack of a tradition of learning from past experiences and keeping “best practices” that can be applied to new PSOs.²⁵ For instance, when the AU mission to Somalia (AMISOM) was deployed, it was as if AMIB and the African Union Mission in the Sudan (AMIS) never existed. AMISOM has not only faced planning and operational problems, including lack of funds, but also the challenge of raising 8,000 troops. Only Uganda and Burundi have deployed a combined total of 3,500 troops

since 2006. Other AU members have so far been reluctant to send their troops to Somalia due to the continuing state of instability and anarchy. While the AU has struggled to raise enough funds for AMISOM, its members have calculated the financial benefits and the risk factors and decided that the latter are too high. The UN has also shown a reluctance to resume direct responsibility of promoting peace in Somalia, preferring that the AU maintain its presence there.²⁶

A slightly different situation was experienced in Darfur where AMIS was transformed into the UN-AU Hybrid Operation in Darfur (UNAMID), after three years of trying to keep peace that did not exist. Despite the huge expectations placed on the second AU PSO upon its inception in April 2004, it was given neither enough support nor a sufficiently robust mandate to protect civilians in Darfur.²⁷ It started with a very limited mandate of observing and monitoring a humanitarian ceasefire agreement between the rebel groups and the government of Sudan, contributing to confidence building efforts and securing the environment for the delivery of humanitarian relief and eventual return of displaced populations to their homes.

Besides being underfunded, AMIS was also underequipped. For instance, satellite phones had to be shared among two or three people, and its soldiers carried machine guns to protect humanitarian workers against rebels armed with “mortars, barreled rocket launchers and anti-aircraft guns.”²⁸ The AU ran AMIS in a very disjointed way, with the Darfur Integrated Task-Force (DITF), the AU Commission (particularly the departments of peace, security and political affairs), field headquarters in El Fasher and mission headquarters in Khartoum poorly coordinating with each other.

In general, AU PSOs have been characterized by slow deployments, lack of funds, poor mission preparations, poor organizational arrangements between military and political units of the mission, poor coordination between units from different countries and poor coordination from AU headquarters. Furthermore there is confusion in identifying lead nations, confusion in command and control leading to dual or multiple commands in operations, tenuous relationships between military units and civilian aid workers, poor communication infrastructure and widespread suspicion of sharing intelligence information and lack of an effective process for evaluating the operation either during or after implementation.²⁹ Once deployed, AU troops have also faced difficulties in logistics, re-supply and rotation.

Several lessons can be learned from these AU peacekeeping operations. These include the recognition that African countries have few or no specialized peacekeeping units; that effective peacekeeping must have adequate resources and not be over-dependent on external assistance, as this severely undermines timely and effective deployment and operation of missions; and that the AU’s difficulties in

deploying its forces can partly be addressed through improvement of its members' military capabilities.³⁰ Effective AU peace support missions also need deployment and sustainment capabilities, combat effectiveness, capable command, control, communications and intelligence, as well as professional training, including education in civil-military relations, international humanitarian law and human rights.³¹

PROMOTION OF NORMS

The AU Commission's 2004 to 2007 strategic plan identifies setting and monitoring common standards as one of its four roles. As of January 2009, the Commission had been instrumental in the adoption of thirty-three protocols, conventions, charters, treaties and agreements on issues including democracy, governance, human rights, defense, natural resources, culture, terrorism trade, health, environment and economic development.³² However, only eighteen of these treaties have been ratified as of January 2009. It is also a matter of concern that few of these treaties have been domesticated and popularized among the African people. Only the norm relating to unconstitutional changes in government has been vigorously enforced.

Democracy

The AU has expressed its commitment to the promotion of democracy in the Constitutive Act, the NEPAD process and the adoption of the African Charter on Democracy, Elections and Good Governance in January 2007. The Charter aims to institutionalize norms and principles such as "good governance, human rights and the right to development," as well as constitutionalism, smooth and peaceful transition of power, "transparency, accountability and participatory democracy."³³ Despite adoption of this charter, violence, vote rigging and manipulation still characterize the electoral process in many African countries. Notable examples include Uganda, where President Yoweri Museveni has not only changed the constitution to rule without term limits, but has also harassed his opponents and muzzled the judiciary; and Zimbabwe, where President Robert Mugabe has used both violence and control of the state apparatus to maintain power.

Other recently held elections questioned for their transparency and fairness were those in Angola, where the long-time ruling party, the Popular Movement for the Liberation of Angola (MPLA), eviscerated the opposition using state resources to make the election outcome a mockery of democracy; and in Kenya, where the flawed electoral process led to post-election violence that claimed more than 1,000 lives and displaced more than 300,000 people. In all of these cases, the AU sent election observation teams. However, the monitoring of elections does not in itself promote democracy. The specter of violence that accompanies most African elec-

toral exercises and resultant political stalemates is an indication that the AU needs to do more than just monitor elections.³⁴

Good Governance

One of the most notable achievements of the AU is the introduction of the APRM to promote good governance in Africa. Initially, the APRM was conceived as a tool to hold African leaders accountable for the governance of their citizens in return for increased foreign assistance and trade. The process is meant to be voluntary and all-inclusive in the preparation of reports that are presented to the AU Assembly of Heads of State and Government for review. So far, twenty-six countries have acceded to APRM and eight have been “reviewed.” Despite initial skepticism and criticisms about the effectiveness of the process to promote good governance in Africa, some of the reviews have made recommendations, which—had they been implemented—may have done much to prevent the 2008 post-election violence in Kenya and xenophobic violence in South Africa.³⁵ Unfortunately, countries with such acute democratic deficits such as Zimbabwe have not acceded to the mechanism.

Another achievement for the AU in the area of governance is the adoption of the Convention on Preventing and Combating Corruption, after which came the 2002 realization that this issue costs Africa’s development more than \$148 billion annually.³⁶ Antithetical to good governance, corruption significantly contributes to high levels of poverty, insecurity and underdevelopment in Africa. Despite the ratification of the anti-corruption convention, the destructive culture of misusing and abusing state resources is still prevalent in Africa. Among the reasons why the AU anti-corruption convention has had little impact in preventing, detecting, punishing and eradicating corruption in Africa are its top-down approach that is meant to hoodwink donors to believe corruption was being addressed and its failure to “take into account the possibility that, in some cases the state has become ‘a vehicle for organized criminal activity.’”³⁷ Ironically, the AU itself has been found to engage in financial profligacy mainly in procurement and travel amounting to millions of dollars, making one wonder how it can spearhead the eradication of corruption on the continent.³⁸

Respect for Human Rights

Despite having a very comprehensive human rights regime, Africa continues to experience widespread human rights violations. For its part, the AU has come under constant criticism for not condemning grave violations of human rights and international law in Africa and for disregarding the African Commission on Human and People’s Rights (ACHPR) reports on Zimbabwe, Ethiopia, the

Democratic Republic of Congo (DRC), Uganda and Sudan. It has never taken a strong position against impunity, one of the biggest causes of conflicts in Africa. Although the AU has made a commitment in Articles 3 and 4 of its Constitutive Act to protect human rights and reject impunity, the Assembly of Heads of State and Government has blocked the extradition of Hissen Habré, former Chadian President and dictator, to Belgium to face accusations of torture and massive violations of human rights. The AU has come out very strongly against the “universal jurisdiction” principle that has been used, mostly by European courts, to bring to justice perpetrators of crimes against humanity. In a landmark decision, the AU Assembly in July 2008 suspended the application of the “universal jurisdiction” principle in Africa.³⁹ During the same month, the AU opposed the International Criminal Court indictment of Sudanese President Omar al-Bashir on war crimes and crimes against humanity. The extradition of Habré and indictment of al-Bashir (and their possible convictions) would immensely contribute to the fight against impunity and promote a culture of human rights in Africa.

In January 2006, the AU Assembly made a decision that undermined the ACHPR’s ability to work impartially by requiring that it first submit its findings on violations of human rights to member-states against whom complaints have been made.⁴⁰ This inevitably rendered such reports unacceptable to the Assembly once governments rejected them. The AU Audit Report points out that member states have also placed enormous obstacles on the work of the ACHPR. For instance, “Some Member States do not grant the ACHPR authorization to undertake missions in their countries even though all Member States have ratified the Charter; the bulk of Member States do not submit their mandatory reports to the ACHPR; certain parties do not comply with the recommendations of the ACHPR; and National Human Rights Institutions do not participate regularly and actively in the ordinary sessions of the ACHPR.”⁴¹

The AU has not empowered its human rights institutions to fulfill its objective of promoting a culture of human rights. For instance, the ACHPR is heavily dependent on donor funding, while the African Court on Human and Peoples Rights (AfCHPR) that was established in January 2006 and is headquartered in Arusha, Tanzania, has yet to function due to lack of human and financial resources, clarification of its mandate, acceptance of its competence by AU members and accessibility to the African people.⁴² Furthermore, the AU has not incorporated the ACHPR and the AfCHPR into its systems of institutions such as the AU Commission, the Permanent Representatives Committee (PRC), the PSC or the Pan-African Parliament (PAP). For instance, although the ACHPR is part of the AU peace and security architecture, it has no links with the PSC or the PAP.⁴³ While the PAP since its inception has requested one report from the PSC to incor-

porate in its work on peace and security, the ACHPR's request to participate in the PSC meetings with human rights-related agenda have been rejected despite Article 19 of the PSC Protocol which provides for such participation.⁴⁴

Non-indifference

One of the characteristics that most distinguishes the AU from its predecessor, the OAU, is the paradigmatic shift from the principle of “non-interference” to “non-indifference.” The OAU's ineffectiveness in stemming egregious human rights violations was partly due to the principle of “non-interference” and “non-intervention” in the internal affairs of member states. This paralysis earned the OAU the sarcastic title of a “Club of Africa's Big Men” who were rewarded with the chairmanship of the organization at the heights of their brutalities.⁴⁵ In a radical departure from its predecessor, and hounded by the gory images of the 1994 Rwanda genocide, the AU's founding fathers included Articles 4(h) and 4(j) in the Constitutive Act to allow the AU to intervene in “grave circumstances” such as war crimes, genocide and crimes against humanity. To date, these clauses have not been invoked to protect civilians in the DRC, Sudan, Zimbabwe and Somalia. This could be due to a number of reasons. Article 4(h) is meant for failed states that cannot protect their citizens' lives, while Article 4(j) is to be applied to weak states that need assistance to protect their citizens.⁴⁶ This means that for the AU to intervene in Sudan or Zimbabwe to protect the civilians in those countries, it must be invited by the respective governments unless it determines that they have failed in their sovereign responsibilities. Other reasons relate to lack of political will, resources or a mechanism to trigger intervention.

Respect for the Rule of Law

The AU has rigorously promoted constitutionalism and the rule of law through implementation of the Lome Declaration on Unconstitutional Change of Governments, which was adopted in July 2000, and Article 4 (p) of the Constitutive Act, which condemns and rejects “unconstitutional changes of governments.” While the Lome Declaration has striven to promote the principle of respect for the rule of law and the political value of constitutionalism, it has noticeably not prevented unconstitutional changes on the African continent. Since its inception the AU has been called upon to denounce military takeovers in the Central Africa Republic (CAR), São Tomé and Príncipe, Togo and twice in Mauritania. When the latest coup d'état took place in Guinea on 24 December 2008, after the death of President Lansana Conte, the AU strongly condemned it and immediately suspended the new government from participating in its activities “until the return to constitutional order in that country.”⁴⁷

It is worth noting that coups in Africa are symptoms of the malaise brought about by bad governance and leadership, soaring corruption, callous marginalization of the poor and many other factors that the AU does not consider when condemning the coups.⁴⁸ In some of these countries, constitutions have been manipulated to prolong bad leadership or weaken “check-and-balances” governance institutions, the opposition, the civil society and the media. The AU has never cautioned members who flagrantly violate the human and civil rights of their populations. The AU has now acknowledged the weaknesses in the Lome Declaration and adopted the African Charter on Democracy, Elections and Governance. However, the charter has so far been signed by twenty-five countries and ratified by only two countries, including Mauritania, a country that has had two unconstitutional changes of governments with last one taking place on 6 August 2008, one month after ratifying the charter.

AU inconsistencies have weakened the force of its well written documents on anti-corruption, democracy, good governance, peace, stability and human rights. While it has allowed the international community to feel relieved that at last there now exists an African organization that has the mandate to resolve the continent’s myriad of problems, its performance in addressing issues related to good governance and democracy has not matched the high expectations. For instance, in 2005, when Togo’s long-serving dictator, Gnassingbé Eyadéma, died, the army suspended the constitution and picked his son, Faure Eyadéma, to succeed him. The AU, through its chair, Nigerian President Olusegun Obasanjo, took a very strong stand against this attempt to assume power through unconstitutional means. However, the AU and the Economic Community of Western African States (ECOWAS), despite putting pressure on the Togolese to respect their constitution, not only failed to stop Faure Eyadéma from stealing the presidential election that was later held, but also remained silent when Obasanjo, two years later, tried to remain in power through constitutional manipulation to serve more than two terms.⁴⁹

CHALLENGES OF BUILDING AN AFRICAN UNION

In order for a strong, functional and successful Pan-Africanist organization to be built, it must overcome a number of daunting challenges. Among these are the AU’s institutional incapacity, lack of resources and a lack of Pan-Africanist ideology and leadership.

Institutional Capacity

Building their capacities is one of the biggest challenges facing African institutions, from community-based organizations to states and regional organizations.

The AU Audit Report strongly recommends that the AU “must grasp the decisive role of institutions in governance” and that these institutions can only “play decisive roles in the destiny of nations” with “good governance and leadership and peoples’ participation.”⁵⁰ Moreover, “good governance depends on the qualities of the men and women that deal with governance. It is institutions that guarantee good governance.” In order for the AU to effectively deliver its ambitious agenda of integrating and developing Africa through its organs, institutions and members, it must be well governed, be “untainted by corruption and arbitrariness” and fully implement its decisions.⁵¹

One of the many criticisms leveled against the AU is that it makes too many decisions and implements too few. Since its formation in July 2002, the AU Assembly, the supreme organ and highest decision-making body, has met seventeen times and made 209 decisions and thirty-six declarations. In comparison, the Executive Council, the other key policymaking organ, has in the same period taken 469 decisions and made three declarations. Due to a number of reasons, these decisions are poorly or not implemented at all. These decisions fail because they are made hastily and not informed by thorough research and knowledge of the problems they are aimed at addressing.⁵² Implementation of AU decisions also depends on how they are categorized: as regulations, directives, declarations, resolutions, recommendations or opinions.⁵³ While the first two must be implemented within thirty days after being taken, the others are not binding. The Assembly and the Executive Council have few monitoring mechanisms to ensure that their decisions are implemented. Although the Assembly may impose sanctions under rules 35 through 37 of its procedures, for “non-compliance with decisions and policies of the Union,” none of its members has faced this penalty.

Matters are made worse by the fact that the Commission, the organ that is mandated to implement the decisions of the other organs of the AU, is “dysfunctional with overlapping portfolios, unclear authority and responsibility lines and expectations, due to inadequate comprehension on (its) part.”⁵⁴ The AU Audit Report also found that there is a “fundamental lack of a full comprehension of the power, the function, the authority and the full responsibilities of the principal actors.”⁵⁵ Additionally, these actors lacked a background in the ethics of international civil service, and were mistaken that the nature of their election made them only answerable to the appointing authority (the Assembly) and not to the chairperson who is the chief executive officer of the organization.⁵⁶ The panel also pointed out that the Commission lacked professionalism, a collegial culture, a Pan-Africanist vision, in-house leadership and management systems. The Commission had low productivity and an “unhealthy organizational culture” due to “poor to nonexistent internal communication strategies,” “ineffective accountability mecha-

nisms,” poor working relations, poor supervision and low morale among the staff. As a result, departments within the commission have worked “in silos, producing gaps, overlaps and a fragmented institution.”⁵⁷

In terms of staffing, the Audit Report found that the Commission was operating with only 60 percent of the approved staff, “despite adequate financing...due to an inefficient recruitment process” and the quota system.⁵⁸ Furthermore, the processes of “recruiting, promoting, motivating and disciplining” the staff was not sufficiently “transparent, efficient and effective” to produce desired results.

The AU lacks an oversight body to monitor and ensure efficiency within the system of organs and institutions. For instance, in 2006, the AU awarded a consortium of European Centre for Development Policy Management (ECDPM), *Gesellschaft für Technische Zusammenarbeit* (GTZ) and Performance Management Consulting (PMC) to implement the institutional transformation component of the strategic plan. However, the consortium was overpaid and its work contributed little to the efficiency of AU “processes for procurement and logistics, accounting, finance and management information systems.” Most AU departments also have had “difficulties (in) reporting on outcomes and impact, expenditure variances to the PRC and external partners.”⁵⁹

Financial Availability

In order for the AU to be able to meet its ambitious development and integration agenda, it needs substantial financial resources. The AU has an annual budget of about \$130 million. This financing is derived mainly from the following sources: membership contributions based on a formula that allows five countries (Algeria, Egypt, Libya, Nigeria and South Africa) to contribute 75 percent of these funds and program funds from voluntary contributions of member-states, civil society organizations, individuals, private sector and foreign donors.⁶⁰

Since its inception, the AU has operated with a budget deficit. Out of the approved budgets of \$470 million it only received \$270 million, a quarter of which was from external sources.⁶¹ However, overreliance of the AU on external support is most profound in implementing its programs related to the peace and security agenda.⁶² Without this support, the AU peace and security architecture would not have been operational. The downside to this is that donors are the ones who have drawn up roadmaps for setting up key institutions and determined which aspects of the peace and security agenda are implemented. In particular, the AU is heavily dependent on support from the UN, the EU, the United States, the UK, Germany, France, Canada, China, Scandinavian countries and other donors to build its conflict prevention, management and resolution capacities. For example, funding from these countries has helped establish the Continental Early Warning System

(CEWS) and the Africa Standby Force (ASF). Without the support of many of these nations, the AU would not have been able to send its peacekeeping forces to Burundi, Darfur and Somalia.⁶³ Most of the external assistance has been in the form of financial, technical, pooled or in-kind support.

One of the bad habits that the AU inherited from the OAU is the practice of non-payments of dues and the accumulation of huge arrears. For instance, at the end of November 2007, one member had contributed \$87 million with twenty-one members in arrears of more than one year, and another twenty-five were without arrears but had not paid their 2007 assessed contributions.⁶⁴ While Liberia, the CAR, Guinea and Guinea Bissau had paid all their arrears, Burkina Faso had made advance payment, and Cape Verde, the DRC, Eritrea, Mauritania, Sao Tome and Principe, and Seychelles were under sanctions for non-payment of arrears.


Lack of Pan-Africanist Orientation and Leadership

Although the Preamble of the Constitutive Act envisioned the AU as an organization that would create “solidarity and cohesion among (African) peoples,” as well as a “united and strong Africa” composed of “governments and all segments of civil society,” this Pan-Africanist ideal has not been widely embraced on the Continent. Contemporary Africa lacks both a political discourse on Pan-Africanism and leaders with credentials equal to Kwame Nkrumah or Julius Nyerere. Only Nelson Mandela has come close to filling the shoes of these great Pan-Africanist leaders. His successor as president of South Africa, Thabo Mbeki, has demonstrated some leadership potential by playing instrumental roles in the formations of the New Partnership for Africa’s Development (NEPAD) and the AU. By proclaiming an “African renaissance,” Mbeki created a fertile environment for ideas such as “African solutions for African problems” to germinate. NEPAD came to symbolize this new mindset of Africans taking ownership of their destinies by practicing good governance, respecting the rule of law and maintaining a culture of human rights. Mbeki’s ideas were well-received by other influential African leaders such as Nigerian President Obasanjo and Libyan leader Muammar el-Qaddafi. Together with Algerian President Abdelaziz Boutfleka, Senegalese President Abdoulaye Wade and Egyptian President Hosni Mubarak, these leaders carried the flame of Pan-Africanism in 1999 that led to the formation of the AU within two years. Ironically, Mbeki and Obasanjo stepped down in disgrace after trying to prolong their rules by vying for third terms, Boutfleka was successful in changing the Algerian constitution to rule with unlimited terms, and Qaddafi and Mubarak have continued to tighten their grips on power while preparing their sons to replace them.

The lack of a Pan-Africanist leadership is more pronounced on the continent

now than at any other time since the early 1960s. Even Qaddafi, who played an instrumental role in the formation of the AU, has never been widely embraced as a Pan-Africanist due to his past record of supporting damaging insurgencies on the continent.⁶⁵ Qaddafi's African interests were also driven more by his desire to break out of the U.S.-led isolation of his regime than aspirations of continental integration and development. His grandiose ideas have widely been regarded as bizarre or disregarded after being adopted. Currently, the continent is bereft of Pan-Africanist ideas, aspirations and ambitions similar to those that guided Nkrumah and Nyerere to spearhead the African liberation struggle and implant the seed of the "African personality."⁶⁶ Nkrumah very thoughtfully designed a strategy that would ensure that foreign interests do not undermine African self-rule and self-pacification. This could be said to be the foundation of "African solutions to African problems," the premise of which was to place the responsibility to protect the African people primarily in the hands of African leaders, states and institutions.⁶⁷

CONCLUSION

The above analysis has shown that the AU's inability to run its programs and implement its ambitious agenda without external support flies in the face of Article 4(k) of the Constitutive Act that calls for "promotion of self-reliance," Article 4(h) that calls for "non-indifference," and of the much heralded principle of "African solutions for African problems." Actually, the "African-ness" of these principles has been determined by who is funding their implementation. Due to the enormous challenges facing it, the AU, after five years of existence, has little to show in terms of democratic consolidation and promotion of a culture of human rights, human security and good governance. Instead, the continent has been characterized in the first decade of the 21st century by weak democratic institutions, pervasive human rights violations and threats to human security, continental vulnerability to external forces and weak institutional capacities to address the various challenges facing the continent. Lacking a Pan-Africanist orientation and leadership, the AU has largely remained unknown to the African people, who have yet to be directly touched by or involved in its work. The AU will continue to be distant from the African people as long as it is member state-driven rather than people-driven. The next five years will be critical for the AU, as its survival will be determined by how the global financial crisis affects its western supporters, and how the recommendations of the Audit Report of the High Level Panel are fully implemented. 

NOTES

¹ Constitutive Act of the African Union, Preamble, http://www.africa-union.org/root/au/AboutAU/Constitutive_Act_en.htm.

² Ibid, Article 3(c) and 3(i).

³ “Africa in Chaos: Where is the AU?” *African Executive*, 26 November-3 December 2008.

⁴ Kwame Nkrumah, *I Speak of Freedom—A Statement of African Ideology* (New York: Praeger Publishers, 1961).

⁵ Kathryn Sturman, “The Rise Of Libya As A Regional Player,” *African Security Review*, 12, no. 2, 2003, 109-112.

⁶ Constitutive Act of the African Union, Preamble.

⁷ David Mitrany, *The Functional Theory of Politics* (New York: St. Martin’s Press, 1976).

⁸ Constitutive Act of the African Union, Article 3.

⁹ Tom Nevin, “Exit OAU, Enter AU: Will the African Union succeed where the OAU failed?” *African Business* (London); no. 268, September 2001; Tom Nevin, “Can the African Union deliver?” *African Business* (London), Issue 279, September 2002, 20-23; Olusegun Adeniyi, “Can We Trust Them This Time?” *This Day* (Lagos), 18 July 2002; Editorial, “AU Must Show It’s Serious,” *The Daily Nation* (Nairobi), 10 July 2002; and John Matshikiza, “Highfalutin, But Will It Fly?” *Mail & Guardian* (Johannesburg), 12 July 2002.

¹⁰ See Amara Essy’s candid views on the OAU, shared with Ofeibea Quist-Arcton, “AU’s Interim Boss Essy Struggles to Shed OAU Legacy,” allAfrica.com, 23 July 2002. The AU inherited a debt of \$54.53 million—the accumulated arrears of 45 countries. See Dennis Onyango, “From OAU to an USA?” *The Daily Nation* (Nairobi), 9 July 2002.

¹¹ European Union, “Africa: The African Peace Facility,” http://ec.europa.eu/world/peace/geographical_themes/africa/african_peace/index_en.htm; Anthony Stoppard, “Africa: African Union May Need Donor Help to Cover Costs,” *Inter Press Service/Global Information Network* (New York), 3 July 2003.

¹² High Level Panel, *Audit of the African Union*, 18 December 2007, 20, paragraph 52.

¹³ OAU Declaration on the Political and Socio-Economic Situation in Africa and the Fundamental Changes Taking Place in the World; AHG/Decl.1 (XXVI) 1990.

¹⁴ Constitutive Act of the African Union, Article 3(i).

¹⁵ Gerrier Olivier, “Is Mbeki Africa’s Savior?” *International Affairs*, 79, no. 4 (2003), 813-825.

¹⁶ This rationale behind the formation of the AU differs from Thomas Tiekú’s, who believes that the AU is an outcome of “separate reform packages that were meant to reform the OAU in line with the foreign policy interests of Nigeria and South Africa.” See Thomas Kwasi Tiekú, “Explaining the Clash and Accommodation of Interests of Major Actors in the Creation of the African Union,” *African Affairs* (2004), no. 103, 249.

¹⁷ Although the African Charter for Human and Peoples Right was adopted by the OAU in 1981, it was never implemented to address egregious human rights violations that were taking place in countries such as Ethiopia, Kenya, Liberia, Nigeria, Somalia, Sudan, Zaire and in most of the OAU member states.

¹⁸ This is the African Peer Review Mechanism (APRM), which is voluntary and could be an effective conflict prevention tool. It is now indubitable that had the recommendations in its reports been taken seriously the 2008 post-election violence in Kenya and xenophobic attacks in South Africa could have been averted.

¹⁹ See AU Assembly Decision (Assembly/AU/Dec.99 (VI)) taken in January 2006 in Khartoum, Sudan, <http://www.africa-union.org/root/au/Documents/Decisions/decisions.htm#20002003>.

²⁰ High Level Panel, 22, paragraph 61.

²¹ OAU Declaration on the Political and Socio-Economic Situation in Africa and the Fundamental Changes Taking Place in the World.

²² Festus Aboagye, “The African Mission in Burundi: Lessons Learned from the First African Union Peacekeeping Operation,” *Conflict Trends*, Issue 2 (2004).

²³ In Burundi, all the parties to the conflict had signed a peace agreement in 2000, except one: FNL-PALIPAHUTU (Forces nationales de liberation – Parti pour la liberation du peuple hutu).

²⁴ Henri Boshoff, “Burundi: The African Union’s First Mission,” *ISS Situation Report*, 10 June 2003.

²⁵ Commander S. Appiah-Mensah, “The African Mission in Sudan: Darfur dilemmas,” *African Security Review*, 15, No 1, 2006, 1-19; Cecilia Hull and Emma Svensson, *African Union Mission in Somalia (AMISOM): Exemplifying African Union Peacekeeping Challenges*, FOI (Swedish Defence Research Agency), FOI-R-2596—SE, October 2008.

²⁶ According to UN Secretary General Ban Ki-Moon, this reluctance is due to the fact that there is “no peace to keep” in Somalia. See United Nations, Transcript of press conference by Secretary-General Ban Ki-Moon at United Nations Headquarters, 17 December 2008: <http://www.reliefweb.int/rw/rwb.nsf/db900sid/MUMA-7MF8F9?OpenDocument>.

²⁷ See Appiah-Mensah, “The African Mission in Sudan,” 1-19; Peter Kagwanja and Patrick Mutahi, “Protection of civilians in African peace missions: The case of the African Union Mission in Sudan, Darfur,” Institute for Security Studies Paper 139, May 2007; and Amber Henshaw, “Africa’s troubled Darfur mission,” *BBC News*, 15 November 2007.

²⁸ Appiah-Mensah, 1-19.

²⁹ This is also the case with all AU operations that have no debriefing of personnel returning from missions. This has meant that the AU has no institutional memory on PSOs. The ASF framework does not recommend end-of-mission assessment, exit interviews, debriefing and mid-mission assessments, a PSO documentation centre or archives. These observations were collected from interviews of and presentations made by a number of people who have served in various AU peace missions.

³⁰ See African Union, “African Peace Facility—Modality: Contribution Agreement,” [http://www.africa-union.org/root/AU/Conferences/Past/2006/October/EU-AU/Financial%20support%20DER%20\(2\).doc](http://www.africa-union.org/root/AU/Conferences/Past/2006/October/EU-AU/Financial%20support%20DER%20(2).doc); William Assanvo and Christian E. B. Pout, “The European Union (EU): African Peace and Security Environment’s Champion?” *Fondation pour la recherche stratégique*, 27 November 2007.

³¹ For more details on challenges facing AU peace support operations, see Festus Aboagye, “The Hybrid Operation for Darfur: A Critical Review of the Concept of the Mechanism,” *ISS Occasional Paper 149*, August 2007; Center on International Cooperation, *Annual Review of Global Peace Operations* (Boulder, CO: Lynne Rienner Publishers, 2008); U.S. House Subcommittee on Africa, Committee on International Relations, “Peacekeeping in Africa: Challenges and Opportunities,” testimony by Victoria K. Holt, 108th Congress, 2nd sess., 8 October 2004.

³² See African Union homepage with treaties, <http://www.africa-union.org/root/au/Documents/Treaties/treaties.htm>.

³³ Preamble of the African Charter on Democracy, Elections, and Governance.

³⁴ Ratification of the Charter on Democracy, Governance and Elections would be a major step in promotion of democracy in Africa. However, much more needs to be done in creating an environment that would allow democratic consolidation. See Amani Daima, “Challenges Facing Emerging African Democracies,” *Peace Review*, March 1998; Wafula Okumu, “Mapping the Path for Democratisation of Africa,” *Pambazuka News*, 21 April 2005.

³⁵ African Peer Review Mechanism, Country Review Report of the Republic of Kenya, May 2006, <http://www.nepad.org/2005/files/aprm.php>.

³⁶ Samuel Makinda and Wafula Okumu, *African Union—Challenges of Globalization, Security and Governance* (London: Routledge, 2008), 64-66.

³⁷ *Ibid.*, 65. An example of such tactics is found in Kenya, which adopted anti-corruption laws and institutions but never prosecuted high-ranking government officials implicated in corrupt deals running into billions of dollars.

³⁸ See High Level Panel, paragraphs 404-431, for details of how finances are mismanaged within the AU.

³⁹ Decision on the Abuse of the Principle of Universal Jurisdiction (Assembly/AU/Dec.199(XI)) was adopted by the Eleventh Ordinary Session of the Assembly. Another decision (Assembly/AU/Dec.200(XI)) relating to the ACPHR implied a lack of understanding of its work and expressed

concern about its poor performance.

⁴⁰ See the resolution on the Decision on the Progress Report on AIDS Watch Africa (Assembly/AU/Dec/101(VI)).

⁴¹ High Level Panel, 84, paragraph 237.

⁴² *Ibid.*, 87, paragraph 247.

⁴³ Article 19 of the Protocol Establishing the PSC.

⁴⁴ Such a rejection came in March 2006 when the ACHPR request to participate in a PSC meeting to discuss the situation on Sudan was denied, despite the fact that the meeting agenda was related to human rights. In January 2006, the AU came close to rekindling the sad memories of the OAU rewarding despicable dictators when Sudan almost assumed the chairmanship at a time when it was being diplomatically and internationally isolated for its terrible human rights record in the Darfur region. This colossal mistake was averted when Nigeria retained the chairmanship through a resolution that allowed Sudan to assume the position the following year.

⁴⁵ For more details on how the OAU was seen as a “Club of Africa’s Big Men” or “a trade union of oppressors” see Makinda and Okumu, 30; Amani Daima, “‘The Biggest Show’ in Africa: the Launching of the African Union,” *The Perspective* (Atlanta, Georgia), 11 July 2002; Theodore T. Hodge, “From OAU to AU: Same Old Lady, New Dress,” *The Perspective* (Atlanta, Georgia), 29 July 2002; Tajudeen Abdul-Raheem, “Building effective African Union,” *The Tide Online*, 19 September 2005.

⁴⁶ Wafula, Okumu, “Can the AU Intervene in Zimbabwe?” *ISS Today*, 8 December 2008. http://www.issafrika.org/static/templates/tmpl_html.php?node_id=3844&slink_id=7071&slink_type=12&link_id=5

⁴⁷ African Union, “Guinea: Communique of the 164th Meeting of the Peace And Security Council,” <http://allafrica.com/stories/200812240751.html>.

⁴⁸ For more on the relationships between bad governance and coups in Africa, see Naison Ngoma, “Coups and Coup Attempts in Africa: Is there a missing link?” *African Security Review* Vol 13, no. 3, 2004; Major Jimmi Wangome, “Military coups In Africa--the African ‘neo-colonialism’ that is self-inflicted,” <http://www.globalsecurity.org/military/library/report/1985/WJ.htm>; Paul Collier and Anke Hoefle, “Coup Traps: Why does Africa have so many Coups d’Etat?” Paper presented at the annual meeting of the American Political Science Association, Washington, DC, 1 September 2005, http://www.allacademic.com/meta/p40854_index.html; and Editorial, “West Africa: The Coup in Guinea,” *Daily Trust* (Abuja), 26 December 2008.

⁴⁹ See Staff Writers, “Togo ‘coup leader’ sworn in,” *afrol News*, 7 February 2005; Richard Cornwall, “Togo: Family matters,” ISS Situation Report, 14 March 2005, <http://www.nai.uu.se/press/newsletter/newsletterpdf/0504cornwell.pdf>; and Geoffrey Ekenna, “Obasanjo’s third term bid would have been disastrous,” *Punch*, 10 April 2007, <http://www.punchng.com/Article-print2.aspx?theartic=Art200710043301632>. For a critique of how the AU confusedly reacted to the 3 August 2005 military coup in Mauritania, see also Timothy Othieno, “African Union Fails the Coup Test,” *Business Day*, 30 August 2005.

⁵⁰ High Level Panel, 22, paragraph 62.

⁵¹ *Ibid.*, 23, paragraph 62.

⁵² For instance, decisions on conflict situations are based on reports on implementation of previous decisions prepared by an over-worked Commission.

⁵³ See Rules 33 and 34 of the Rules of Procedure of the AU Assembly.

⁵⁴ See High Level Panel, paragraph 112.

⁵⁵ *Ibid.*, 45, paragraph 115.

⁵⁶ *Ibid.*, 44-5, paragraph 114.

⁵⁷ *Ibid.*, 47-8, paragraphs 121-4.

⁵⁸ *Ibid.*, 50-1, paragraphs 129-132. While twenty-one countries had already filled their quotas, six were under sanctions and twenty-six could not provide qualified candidates for employment.

⁵⁹ High Level Panel, 65, paragraphs 181-182.

⁶⁰ Six percent of the operational fund goes to the AU Peace Fund. In 2005, donors contributed 95 percent of the \$95 million programmatic funds. See AU Assembly Decision on the Budget of the African Union for 2007 (Assembly/AU/Dec.154 (VIII)), taken by the Eighth Ordinary Session, 29-30 January 2007.

⁶¹ Although \$195 million was expected to come from external partners, only \$61 million was received. See High Level Panel, 145-147, paragraphs 405-7.

⁶² See African Union, "African Peace Facility—Modality: Contribution Agreement," [http://www.africa-union.org/root/AU/Conferences/Past/2006/October/EU-AU/Financial%20support%20DER%20\(2\).doc](http://www.africa-union.org/root/AU/Conferences/Past/2006/October/EU-AU/Financial%20support%20DER%20(2).doc); and William Assanvo and Christian E. B. Pout, "The European Union (EU): African Peace and Security Environment's Champion?" Fondation pour la recherche stratégique, 27 November 2007, http://www.frstrategie.org/barreFRS/publications/pv/stabilisation/pv_20071127_eng.pdf.

⁶³ For more information, see Jakkie Colliers, "Towards a Continental Early Warning System for Africa," Institute for Security Studies Occasional Paper 102, April 2005; and Steve Mbogo, "African Peacekeeping Force Development Continues Despite Funding Challenges," 21 December 2006.

⁶⁴ High Level Panel, 29, paragraph 77.

⁶⁵ Wafula Okumu, "AU-US Relations," in *Global Perspectives on the United States 3*, Berkshire Publishing, 2007: 293-296, and Deh Suah, "One Man's Revolutionary is Another Man's Killer," *The Perspective* (Smyrna, Georgia), 16 July 2002, <http://www.theperspective.org/oneman.html>.

⁶⁶ Makinda and Okumu, 18-20.

⁶⁷ *Ibid.*, 20.